United States Court of Appeals

for the Second Circuit

TRANSCRIPT

75-7061

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

B

TRINITY EPISCOPAL SCHOOL CORPORATION and TRINITY HOUSING COMPANY, INC.,

Plaintiffs-Appellants,

ROLAND H. HARLEN, ALVIN C. HUDGINS and CONTINUE,

Intervening Plaintiffs-Appellants,

v.

GEORGE ROMNEY, SECRETARY OF DEPT. OF HOUSING AND URBAN DEVELOPMENT, S. WILLIAM GREEN, REGIONAL ADMINISTRATOR, DEPT. OF HOUSING AND URBAN DEVELOPMENT, U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT, CHARLES URSTADT, COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL, N.Y. STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, THE STATE OF NEW YORK, JOHN V. LINDSAY, ALBERT A. WALSH, HOUSING AND DEVELOPMENT ADMINISTRATION OF THE CITY OF NEW YORK, THE CITY PLANNING COMMISSION OF THE CITY OF NEW YORK, DONALD H. ELLIOTT, WALTER MCQUADR, IVAN MICHAEL, GERALD L. COLEMAN, CHESTER RAPKIN, MARTIN GALLENT, ABRAHAM D. BEAME, SANFORD D. GARELIK, PERCY E. SUTTON, ROBERT ABRAMS, SEBASTIAN LEONE, SIDNEY LEVISS, ROBERT T. CONNER and THE CITY OF NEW YORK,

Defendants-Appellees,

STRYCKER'S BAY NEIGHBORHOOD COUNCIL INC.,

Intervening Defendant-Appellee.

TRANSCRIPT

(Volume V of IX - Pages 1835-2356)

DEMOV, MORRIS, LEVIN & SHEIN
Attorneys for Plaintiffs Appellants and Intervening Plaintiffs-Appellants
40 West 57th Street
New York, New York 10019
757-5050

UNITED STATES COURT OF APPEALS
FEB 20 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

COUNSEL PRESS, INC., 55 West 42nd Street, New York, N.Y. 10036 • PE 6-8460

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Roland N. Karlan	73	102		
Roger Starr	184	237		

EXHIBIT INDEX

Defendant Stryker	Identification	In Evidence
A	239	243

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Roger Starr (Resumed)		283	409 446	435

EXHIBIT INDEX

	Identification	In Evidence
Government		
B		286
C	290	291
D		437
Plaintiffs		
1		413
2	416	417
3	418	420
4	421	422

INDEX

WITNESS	DIRECT
Walter S. Fried	
Eugene J. Morris	458

EXHIBITS	IDEN.	EVID.
Plaintiff's Exhibit 5.		478
Plaintiff's Exhibit 6.		483
Plaintiff's Exhibit 7.		486
Plaintiff's Exhibit 8.		488
Plaintiff's Exhibit 9.		489
Court's Exhibit A.		496
Plaintiff's Exhibit 10.	507	511
Plaintiff's Exhibit 11.		516
Plaintiff's Exhibit 12.		519
Plaintiff's Exhibit 13.		524
Plaintiff's Exhibit 14.		527
Plaintiff's Exhibit 15.		528
Plaintiff's Exhibit 16.		528
Plaintiff's Exhibit 17.		531
Plaintiff's Exhibit 18.		531
Plaintiff's Exhibit 19.		534
Plaintiff's Exhibit 20.		535

559

I N D E X (CONTINUED)

EXHIBIT	IDEN.	EVID.
Plaintiff's Exhibit 21.		539
Plaintiff's Exhibit 22.		545
Plaintiff's Exhibit 23.		546
Plaintiff's Exhibit 24.		547
Plaintiff's Exhibit 25.		547
Plaintiff's Exhibit 26.		548
Plaintiff's Exhibit 27.		549

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Walter S. Fried (Resumed)	562	616		

EXHIBIT INDEX

Plaintiff	In Identification	In Evidence
28		563
29	586	587
Government		
E1	614	
F	621	622

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Walter S. Fried (resumed)		683	812 862	
Eliot Lumbard	841			

EXHIBIT INDEX

	Identification	In Evidence
Defendant		
G	685	688
Plaintiff		
30	812	
31	816	
Court's		
B	877	

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Walter Fried (Resumed)			882	884
			948	953
Elliot Lumbard (Recalled)	965	1033		

EXHIBIT INDEX

Government	Identification	In Evidence
H	909	911
I	916	

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Eliot Lumbard (Resumed)		1083	1146	1160

EXHIBIT INDEX

Government	Identification	In Evidence
I		1078
Plaintiffs		
34		1079

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Alvin C. Hudgins	1169	1225	1280	1282
Jerome L. Fine	1286	1352		

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
30		1164
31		1166
35	1184	
35-A	1188	1197,1199
35A(1)	1191	
36	1199	
36A,36B		1201
Defendant		
J	1275	

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Arthur Bromberg	1376	1465		

EXHIBIT INDEX

Plaintiffs	Identification	In Evidence
38	1448	
39	1449	1451
40	1453	1453
41	1455	1456

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Jerome L. Fine (Recalled)		1480	1535	1542
Arthur Bromberg (Recalled)		1549	1616 1639	1625
Efrain Frank Garcia	1642			

EXHIBIT INDEX

EXHIBIT INDEX

Defendants	Identification	In Evidence
K	1488	1488
L	1489	1492
M	1517	1519
N	1529	1530
Q		1631
R	1634	
Plaintiffs		
42	1617	1620
43	1639	

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Rafael Sifonte	1666			
Efrain Frank Garcia (Resumed)		1673	1677	1680
Edward Sulzberger	1682	1712		
Lisa Kolb Liebert	1785			

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Lisa Koll Liebert	1846	1893		

EXHIBIT INDEX

Defendants	Identification	In Evidence
F		1844
Plaintiffs		
45	1845	
46		1892
47	1976	

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Jay I. Olnek	1994			
(Recalled)	2046	2067	2122	2126
Charles H. Tenney	2028	2030		
Lisa Kolb Liebert (Recalled)		2038	2042	
Austin K. Haldenstein	2130			

EXHIBIT INDEX

Plaintiffs	Identification	In Evidence
48		2021
49	2033	
50	2033	
51	2034	
52	2034a	
53	2046	
54	2048	2049
55	2059	2061
56	2065	
57	2135	
58	2141	2142

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Austin K. Haldenstein (Resumed)	2160	2179		
Abe Roth	2242	2251		
Rafael Sifonte	2253	2283		
Dinah Sours	2303			
Walter S. Fried (Resumed)		2336		

EXHIBIT INDEX

Plaintiffs	Identification	In Evidence
60 through 64		2158
65		2177
66, 67		2178
68-A, 68-B	2343	
68-C	2348	
68-D, 68-E	2349	

Defendants		
V	2206	
W	2206	
X	2240	

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Dinah Sours (Resumed)	2357	2359		
M. Paul Friedberg	2400	2446		

EXHIBIT INDEX

Plaintiffs	Identification	In Evidence
69		2488

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Frank S. Kristof (Resumed	2504	2520 2628		
Miles L. Owens	2553	2563		
Roland N. Karlan	2614	2621		

EXHIBIT INDEX

Defendants	Identification	In Evidence
Z		2621

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
William Gaynor (Resumed)	2702	2796		
M. Paul Friedberg (Resumed)		2755		

[redacted]

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Harry G. Foden	2836	2878	2917	2921
James William Gaynor (Resumed)		2923	2955	

EXHIBIT INDEX

Defendants	Identification	In Evidence
AB	2929	2930
AC	2932	2933

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Roberta Brandes Gratz	2973	3027	3072	3074
John B. Maylott	3077	3108	3126	
David J. Goodman	3128	3148		
Robert G. Hazen	3153	3179		
David S. Olinger	3186	3197		
Bernard J. Wohl	3214			
Julia Rudy Matlaw	3252			

EXHIBIT INDEX

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
S. William Green	3282	3342	3381	3383
Sidney H. Morison	3385			
Elaine J. Schwartz	3405	3439		
Thomas Farrelly	3442	3463		
Karen Jorgensen	3467			

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Frank S. Kristof (Recalled)		3485 ~~3493~~		
Henry J. Browne	3503	3553	3558	
Hannah Hess	3560	3583		
Betty Joan Lawrence	3585			
William C. Hunter	3594	3605		
Irvin Schwartz	3613	3618		
Peter J. Prezioso	3621	3652	3659	3664

EXHIBIT INDEX

Defendants	Identification	In Evidence
AH		3496
AI		3498
AJ	3622	3627
AK	3623	3627
Plaintiffs		
70		3500

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Milton Mollen	3669			
Herbert J. Gans	3690	3708		
Carlo Justinano	3734			
Shirley Sanderson	3754			

EXHIBIT INDEX

Defendants	Identification	In Evidence
AL	3688	3689

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Samuel Crystal	3764	3774		
Lee Goodwin	3781	3794		
Joseph J. Christian	3808	3812	3815	
Hermanda Badillo	3835			

EXHIBIT INDEX

Plaintiffs	Identification	In Evidence
47		3767

Trinity Episcopal School Corp.
et al

and

71 Civ. 4315

Roland N. Karlan, et al.

vs.

George Romney, etc.

New York, New York.
May 1, 1974- 10:05 A.M.

(Trial resumed.)

THE COURT: Counsel, ladies and gentlemen, it would be unthinkable to proceed with this trial without spending a few minutes by way of a look to Law Day, U.S.A.

This is an occasion to recall the immortal expressions of that judicial giant, Chief Judge Learned Hand. And I was there when he said this with every molecule of his being vibrant, positive, thundering, a commitment of a man's mind and soul and very being to what he believed in and fought for, a man who was not afraid to show how he stood, a Judge who, on occasion was so impatient that when lawyers came unprepared and didn't know how to manage, I am reliably informed, turned his seat around so the back of the chair faced counsel. The words that he spoke to feelingly and which by osmosis I too have absorbed

pgb-2

read like this:

"Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court, can save it; no constitution, no law, no court can even do much to help it. The spirit of liberty is the spirit of Him who near two thousand years ago, taught mankind that lesson it has never learned, but has never quite forgotten: That there may be a kingdom where the least shall be heard and considered side by side with the greatest."

I want to pay my proper respect to the members of my profession, without whose labors over the centuries this day would not have been possible. Their exemplary deportment at the bar demonstrates the constancy of their devotion both to the letter and the spirit of the law. You realize, of course, that I refer to legions of lawyers genuinely devoted to their profession, who believe in the ministry of the law; those who will not settle for cheap success. They really understand what Nobel Prize Winner Albert Camus meant when he wrote: "Justice dies from the moment it become a comfort, when it ceases to become a burning reality, a demand on one's self."

You will distinguish, as I do, between the self-righteous breastbeaters, the demagogues, the boasters

of their humanity, and those out of a world full of human limitations, full of half-truths, full of comfortable rationalizations, who rise and say "I go this way, not there; I am this, and not that; I have no price, but only value."

Indeed, for those who build their safety in things and things alone there is no greater threat, no more incomprehensible danger, than such a lawyer, a lawyer in pursuit of truth. Oh, it is easy to be cynical -- and you see it on all sides -- and to run with the pack. You and I must throttle the growing conviction on all parts from all sides, from all kinds of people, that whatever we hope for and whatever we do are irrelevant and that our individual efforts really make no difference in stemming the sweep of world forces. To me -- I think so today, and I have always thought so -- this mood of resignation is but a desire to escape from the problems of freedom. It is a fear of growing up and maturely accepting one's responsibility in a democracy.

They have lost faith, if they ever had any, in the efficacy of effort. Because they believe they are suffering they make others suffer. Tormented by fear, they make others afraid. They need to be shown they are wrong by people who take their religion with

them right into the thick of the world and put it to work there.

The will to do justice is so very much more than a mental exercise. I am speaking of lawyers who serve with honor and not for honor; men, to paraphrase the same Judge Learned Hand, 'content to be themselves, confident that if they are faithful in that their light will shine steady and far. Unafraid before the unknown universe, indifferent to the world's disparagements and uncorrupted by its prizes, they are ardent and secure in that faith by which alone mankind in the end can live.

It is all very easy for the other fellow to say, to use the vernacular, "Let George do it let him have the courage, let him stick his neck out." We are in this sorry state because we passed the buck to everybody else. We give lip service to these principles because the truth of the matter is that we are afraid to do the spadework. So, let this be a renewed pledge by all of us to translate into tangible, overt action what we prattle about so much.

We can stand up for those fundamentals that we all know are embodied in our constitution. It behooves each one of us to strike a blow the moment our attention is called to an indignity, to an impropriety, or to a wrong.

We can make ourselves strong without and strong within, and I know of nothing that will make us stronger within than by mending the rents that thoughtlessness and injustices have made in the fabric of our freedom -- and I mean each one of us, not just the Judge or the lawyer.

Two hundred years ago in The Times of London, evening, there was printed an editorial; see if it didn't forecast what we have lived to be tormented by today in your neighborhood, my neighborhood, across the land; and with that I will be done.

"The greatest tyranny has the smallest beginnings. From precedents overlooked, from remonstrances despised, from grievances treated with ridicule, from powerless men oppressed with immunity, and overbearing men tolerated with complacence, springs the tryannical usage which generations of wise and good men may hereafter perceive and lament and resit in vain.

"At present common minds no more see a crushing tyranny in a trivial unfairness or a ludicrous indignity than the eye uninformed by reason can discern the oak in the acorn or the utter desolation of winter in the first automnal fall.

"Hence the necessity of denouncing with unwearied and even troublesome perseverance a single act of

oppression. Let it alone and it stands on record. The country has allowed it and when it is at last provoked to a late indignation it finds itself gagged with the record of its own ill-compulsion."

In the spirit of these remarks, let's proceed with our commitment.

End 1 MR. MORRIS: Your Honor, we have agreed on the figures which we told the Court yesterday we would work out.

The agreement consists of acceptance by us of the schedule which was prepared by the city, which is subject to a statement prepared by us which I will explain as follows:

The schedule prepared by the city is correct in the figures that it shows and we have no objection to them.

THE COURT: Would you mind repeating for the sake of the record what those figures deal with? I think I know.

Now you are talking about them in great detail, you are about to introduce it into evidence. Let the record show what in general it reveals.

MR. MORRIS: Yes.

I refer to West Side UrbanRenewal occupied units -- redevelopment sites, schedules prepared by the City of New York in cooperation with the various plaintiffs and defendants in this action. That schedule gives the site number of each project in the area, the name of the project and the type of financing of the project and the total number of units involved and then contains a breakdown of those units into units which are FHA or Mitchell-Lama and 221-D3 or 236 in one column, and then to the right of that four columns referring to the low income categories

allocated to each of these projects subdivided into the four following units:

(1), Section 23 leased public housing units;

(2), capital grant units;

(3), units of rent supplement, and

(4), units of skewed rental.

The final column of rental shows the occupancy date of the particular project.

The schedule is then subdivided into three pages which consists of projects completed, already finished. It then consists of one page showing projects in construction and then one page showing projects yet to be completed.

In each instance it details the figures allocable to the categories I have described.

That schedule is acceptable to the plaintiffs. However, that schedule does not contain totals. They have not been included on the schedule.

THE COURT: Totals of?

MR. MORRIS: Totals of each category with particular reference to the low income categories in the schedule.

Accordingly, we, the plaintiffs, have prepared an addendum to the city's West Side UrbanRenewal area occupied units-redevelopment sites schedule that I just

described, and that addendum gives the totals of the items contained in this schedule.

THE COURT: And is it acceptable to your opponents?

MR. MORRIS: And it is acceptable to us, and our opponents, Mr. Gold, indicated he wants it to be checked by his people and it is subject to their checking further as to whether we made any errors or not.

In addition, there is at the bottom line a figure which consists of a total of all public housing units, 3029 units, a statement which is the statement of the plaintiffs with relation to that figure, and I will read that statement.

THE COURT: Hold it. Don't read it until it is actually in evidence. They seem to have some comments they wish to make.

MR. MORRIS: Let me explain that this exception, this asterisk, marks the items which are not included in the figure which is shown here as the total of all public housing units according to our contention.

THE COURT: May I suggest this: Would you be good enough now to offer in evidence what you call the several pages making up the survey. If there is no objection, it will be marked as an exhibit, and I am grateful to

counsel on both sides for their participation in making it come into existence. That becomes an exhibit and undoubtedly will be relied on a great deal by all of us.

MR. MORRIS: That should be a defendants' exhibit.

THE COURT: That is all right with me. I don't care how.

xxx (Defendants' Exhibit F was received in evidence.)

THE COURT: Now, there was to be some comment, I gather, as to the addendum before that is received. What did you want to say?

MR. DOUW: As to the addendum , your Honor, I only saw it this morning. At first glance it looks all right, but I would like to check it.

THE COURT: You will get that chance.

Just offer it a little later.

What do you want to say, Mr. Gold?

MR. GOLD: I have the same comment. Just to clarify for the Court, what the addendum really does is it is a little addition.

THE COURT: Excuse me. Don't explain the addendum until you people are agreed on it and then you can

say anything you wish. Right now I don't know just what you will finally wind up with.

MR. GOLD: Fine.

THE COURT: Why don't you study it a little further and then before the day is over offer it in evidence with such corrections as you agree upon.

MR. MORRIS: Your Honor, may I suggest, for purposes of coherence, I think it might be more helpful to the Court and everybody concerned if this exhibit is marked for identification at the present time.

THE COURT: The addendum will be marked for identification.

Is that your exhibit?

MR. MORRIS: Yes, this should be our exhibit.

xxx (Plaintiffs' Exhibit 45 was marked for identification.)

THE COURT: Let counsel study it and before the session is over let's go back to it and renew your offer.

Are we ready to proceed with the witness?

MR. MORRIS: Yes, we are.

THE COURT: Come back, please, Mrs. Liebert.

L I S A K O L B L I E B E R T resumed.

THE COURT: You understand you are continuing with your testimony under oath?

THE WITNESS: Yes.

THE COURT Wait just a minute, counsel?

(Pause.)

THE COURT: Mr. Morris, won't you please proceed.

DIRECT EXAMINATION (continued)

BY MR. MORRIS:

Q Mrs. Liebert, did you overnight go over your records with respect to the date that you took title to the property?

A Yes, sir.

Q Do you wish to make a correction with respect to what you testified to yesterday?

A Right.

Q Would you tell us what that correction is?

A The closing of title took place on 9-28-1964.

Q And you testified yesterday 1965?

A Right.

Q You were in error and you are now correcting that date?

A Yes. All the other dates I have verified and are accurate.

Q Now, you were testifying yesterday as to conditions in the area during this period subsequent to 1970.

Is there anything you wish to add to the testimony that you gave yesterday?

A Well, in reference to the particular events on our block, I would like to add the fact that two years ago in the spring, that is, in the spring of 1972, the conditions on the block had deteriorated in terms of safety and the general anxiety of the tenants such that we for a brief period of the summer months only managed to raise enough money to hire a guard.

In addition, a guard was placed through the action of the tenants largely in the holding sites on the corner with some cooperation from the block association to obtain a guard to actually be present in that building in the late afternoon and evening.

That guard has intermittently continued and in the summer months, last summer again, people who lived in the house, the holding site, who had been there for as long as I had, with whom we had always had some relationship, again asked the block association to assist them inobtaining a guard to be there.

The guard is still there. The guard is now apparently permanently retained.

Q Who pays for that guard?

A I believe that guard is paid for by the city.

Q But originally it was paid for --

A We hired our own private guard for two months.

Q And that was paid for by whom?

A By us. We raised the money and hired him through a private guard service.

Q When you say "us," would you tell the Court who you mean by "us"?

A The West 88th Street 100 Block Association.

Q The Block Association?

A The Block Association .

THE COURT: Madam, would you be good enough, you are an intelligent person and you know what you want to say, I am sure, but what you are doing is making it very tough for the court reporter because you rush in with your answer before the question is completed. Won't you just take your time.

Q Does that consist of owners on the block?

A It is owners and tenants. There are on our block a number of renovated units that contain small apartments.

Q And all of those people contributed to the cost of this guard?

A A number of them contributed. The block association agreed to raise the money and we solicited on

a house-to-house basis. The homeowners were assessed or asked to give a higher amount, a larger amount, of money than individual tenants in small apartments.

Q What gave rise to the need for such a guard?

A Well, two things. I think our general anxiety about the condition and increased sense of hostility in the holding sites. In addition, there has been, for as long as I have been on the block, a youth center under the aegis of addiction services across the street in a small city-owned brownstone. That program had always been there, but had not appeared to be particularly active. Around that time the program --

Q What time?

A Around the summer of 1972.

Q '72?

A '72. I think the year before that, but in the summer it became particularly evident that the nature of the program had changed and particularly had geared itself at that point -- I met with the director of the program -- to setting up some kind of program for adolescents who were judged pre-addict, not presumably addicted, but from some family situation or some social situation where the potential for addiction was very high. These are almost

entirely black teen-agers, not from the immediate surrounding area, but from the general West Side area. To the extent that it's been explained to me by the director of the program, this program expanded a great deal at that point and so there were very largely increased numbers of teen-agers on the block who were quite hostile to the tenants.

I myself have repeatedly had obscene remarks made to me by kids sitting on the stoop. There is as a very large group, that is to say, ten, fifteen teen-agers. Some join them from the holding sites, but in the main they are children who are connected to the program and not residents, to my knowledge, in the immediate area.

There were a number of very late night dances in which the teen-agers poured out on the street in great numbers. There was one occasion in that summer when there appeared to be a fight going on and there was a loud altercation outside the window on the street and we called the police. I saw it out my window. There was some threatening with knives and a group of kids coming from opposite ends of the street, but police appeared and broke it up.

So there were rocks being thrown into yards from the youth center.

THE COURT: You mean on that particular occasion?

THE WITNESS: No, in general. There were repeated

incidents of that sort where two houses adjacent particuarly were subject to having rocks thrown into their yards.

So the level of general concern was very high and particularly felt in the summer when the activity on the street, particularly through the youth center, was very great, that some kind of guard would be helpful. People were particularly anxious, but they were going away, houses might be left empty some of the time.

Q WAs there anything particular about the summer with respect to these conditions?

A Well, the summer is, as a rule, much worse.

Q Would you tell us in what respect?

A The hydrants are open continuously. In fact, the hydrants had been open continuously and used for washing cars, flooding some of the houses at the other end of the street a number of times.

But the hydrants were open, there was constant activity until very late hours, two, three in the morning sometimes, in the playground, and also in what had become an empty lot.

There had been some buildings demolished on 89th Street which backed up to our houses, and from which there was access, really, to all the yards.

There is no wall there. There is a fence around the playground but there is no wall that effectively separates the lot which is open to the sidewalk all around and the yard.

So there is much more noise and there is much more dirt, there is much more open throwing of garbage.

But there is also a constant activity on the street, blaring radios, and it is on both sides. At least from my house it is both in the lots behind my house and on the street in front of my house. I would characterize it as increasingly chaotic every summer.

Q Now, did a situation arise as a result of what you observed with respect to these conditions that you have described?

A Well, in the summer of 1971 -- I am sorry -- 1972, no, I am sorry, I correct that 00 1971 we decided -- we felt the neighborhood was not going to develop the way we wanted it. The hearing had been held on Site 30. We had a number of meetings, one of which had been broken into, broken up, picketed, and people had actually come into the meeting and one of our members had been assaulted and it was very unpleasant and very frightening. My husband and I became extremely discouraged about the progress of the neighborhood and at that point we put our house on the market for about six months. At the end of six months --

Q When you say you put it on the market, you mean you offered it for sale?

A I offered it to Mr. Haldenstein.

Q You mean you offered it for sale?

A Offered it for sale.

Q With the understanding that you would leave the neighborhood ?

A That we would leave the neighborhood.

Q Would you tell us about that?

A We had no buyers for about six months at all, but I continued to serve as block association chairman and we were told at that point -- I was told, for instance, by the project director that there was some expectation that they would proceed with construction, this site being a new public school, within a year. So after six months we took our house off the market and decided that we would try another year or so in the hope that construction would go forward.

But in the summer of 1973, last summer -- I would say that before that things however just continued to go on and just to get worse and worse physically. Last summer I came home alone to the house in August and I spent a week alone in the house and the conditions were extraordinarily chaotic. Every hydrant was open. I could neither get to the house without going through a hydrant and a mob of children at the Amsterdam Avenue corner, the hydrant was open around the clock on my corner practically in front of my house, there was a mob of children and I mean around the clock there. The street was entirely strewn with garbage. The noise behind the house was constant. There were always young people gathered there until 2:00,3:00 in the morning playing bongo drums, having parties, breaking bottles.

Last night there was such a party late at night in the playground and I got up to look out and I heard kids throwing bottles all over, smashing bottles.

After about a week of it I had absolutely had it and I had had a number of altercations which I testified to yesterday with various people in the tenements and I decided that we absolutely could not wait any longer, there did not seem at that point any prospect whatsoever of any construction in the forseeable future.

The buildings were clearly getting worse, the life that flowed out onto the street seemed increasingly chaotic, and, in addition, because of the changes that had taken place in both the funding and the designations of sites, it seemed to us highly likely that instead of ending up with a very mixed kind of building around us, that is, a public housing project at one end but a moderate or middle income building on the corner adjacent to us, which we expected when we bought the house, we would end up with very low income housing if not public housing, because the experience in the last few years and of the hearing I testified to at the Board of Estimate and City Council hearing was that both in terms of Site 4 and in terms of Site 30 and I would assume in terms of funding programs that one site after another had been

redesignated from middle income housing to low income housing.

Now, it was never our intention to live surrounded by -- as a small group of relatively affluent people surrounded by low income housing. In addition, my children were -- I felt my children were not safe. I faced the prospect of having my young daughter beginning to go to school by herself. I sent her on the bus until them but I didn't want to have to keep her on a bus when she seemed old enough to go herself because it wasn't safe. So we put our house on the market, this time irrevocably, to sell it.

Q Would you tell us what occurred with respect to the house on the market?

A I spoke to Mr. Haldenstein.

THE COURT: Excuse me. When did you do this?

THE WITNESS: In August, the last week in August of 1973. I gave the house to Mr. Haldenstein.

Q Is that Austin Haldenstein?

A Yes, who sold us the house originally.

I had no buyers of any kind until February of this year, that is to say, not one person came to look at the house until February of this year. Because of my own schedule, I really had to move in the summer

or probably delay until the next summer. So I then began to pressure Mr. Haldenstein and I gave it in addition ultimately to one other agent.

Two people before the ultimate sale actually came into the house. In general when I discussed it with Mr. Haldenstein he said that although the house was extremely desirable and there are not very many two-family houses left or available, people would simply not consider going past the corner.

MR. DOUW: Objection.

THE COURT: Yes, objection is sustained. We will have to strike that portion, the last sentence or two.

All right, go on.

Q What occurred with respect to the sale of the house?

A We have sold the house to the only person who appeared to buy it.

THE COURT: When was that, madam?

THE WITNESS: We signed the contract last week. We will close on the house on June 30th.

Q You still live there?

A We live there. We will move on June 15th.

Q I didn't hear what you said.

A We live there. We will be there until June 15th.

Q What will you do on June 15th?

A We will move to an apartment.

Q In other words, you are moving out of the area, is that correct?

A Yes.

Q Where are you moving to?

A 73rd and Central Park West.

Q What is the address?

A 135 Central Park West.

Q Would you describe the purchaser of the property?

A The purchaser of our house is a single black man, who has no children, obviously. He is an athlete.

Q He is a basketball played?

A He is a basketball player.

Q What is the name?

A We sold the house to Earl Monroe of the Mets or Knicks.

THE COURT: I must plead ignorance in many respects, this one included. Who is he? You all seem to recognize him.

MR. MC LOUGHLIN: He is with the New York

Knickerbockers. He is an outstanding athlete.

THE COURT: Recognized and celebrated?

MR. MC LOUGHLIN: Yes.

THE COURT: Very good.

Q And the contract has already been signed?

A Yes, sir.

Q Did you in the course of your activities, as you described them since you lived in the property on 88th Street, have occasion to work with the people at Strycker's Bay and with the people in the City with respect to the figures of the number of families allocated in the West Side Urban Renewal area?

A Yes.

Q Would you tell us what you did with respect to that?

A I have been the block association delegate to Strycker's Bay for about five years. Last year, in 1972, I participated during the year in the Housing Committee meetings. I volunteered.

THE COURT: You said "last year."

THE WITNESS: L972, sir.

THE COURT: You don't mean last year. 1972. Yes?

THE WITNESS: In 1972, I guess it would be '71

and '72, that year, I participated in the Housing Committee of Strycker's Bay. I volunteered to do that. In the course of the year plans were made for having a conference to consider what should be done with the remainder of the Urban Renewal area. I was on the committee that elected to deal with the numbers - - the use of the units already constructed and the projection of the building in the West Side Urban Renewal.

So in prepareing for that meeting I spent about two weeks, I would say, extensively about a week, working at the Strycker's Bay office with Mrs. Thomas, Mrs. Marzan and other people, other members of the committee. We had a number of committee meetings. But I did a good deal of the work with the assistance of the Strycker's Bay staff in trying to do a building-by-building survey to establish how many of the allocated units under the various subsidy programs had actually been filled.

We had always had some question, although they were allocated on paper, whether in fact low income families got those units or got more or got less, and the state of the figures from the City was such that there was no basis of an agreement in the community, so it was my particular suggestion that a useful thing to do would be to do this survey and to try and get some basic

factual material about it.

Q And as a result of that, did you arrive at a schedule of the allocation of units in the West Side Urban Renewal area?

A Yes, sir.

THE COURT: May I interrupt or will you please develop to what extent Mrs. Liebert participated? Did she go to the place? What did she do? Did she interview the tenants and so forth? I want to know the basis, how thorough a job was done.

Q Will you tell us that?

A We used as a basis --

THE COURT: When you say "we" --

THE WITNESS: Largely in conjunction with the Strycker's Bay staff people and the members of the committee.

THE COURT: You went along?

THE WITNESS: I did most of the actual work with the Strycker's Bay staff.

THE COURT: What did you do?

THE WITNESS: We went through the records of the original site agreements which were signed I believe when the land was acquired or in some process of developing the program whereby the City had allocated

a specific number of units.

Now, in the more recent years those apartments -- Strycker's Bay has had more complete records because they have participated in finding the families for the allocated low income units. We used their records essentially. We used letters and records where tenants had been disallowed in the early State capital grant programs where we found the greatest loss of units. In some buildings where there were no records in Strycker's Bay files we talked to people who were heads of building associations. We used as a base figure the city's -- a city document which gave us the allocated number of units and which at that point was still the official document of the city. The city maintained that the allocated number of units was the number of units.

THE COURT: What did you do to check it out? How did you double check it? Here is a figure you found in the city -- will you wait? Please don't be so impatient. Get the thought of the question and the go ahead. I wouldn't ask you if I didn't want information on it. I know I have dealt with things like that. What did I do? I saw a figure. Was it right, was it wrong? What I did is used shoe leather. I went to the place and I asked questions and I interviewed this

one and that one and members of the family, in another connection entirely, devoid of what we have here. What did you do?

THE WITNESS: I sat in the Strycker's Bay office and I took the city figure and building by building I said, "This is the city figure. What record do we have that sustains this figure or shows some difference?"

I never looked at an actual record that contained names of tenants and information that I didn't feel I needed to have. I only needed the number.

Mrs. Thomas or Mrs. Marzan or somebody else in Strycker's Bay staff as a rule got the folder or looked for the particular material -- I assume there is a folder for each building -- and said, "Yes, our records show that we submitted this number of tenants and they were accepted."

There are records I know for the newer buildings of the tenants. So I got it entirely from the Strycker's Bay files.

THE COURT: Thank you. There is an answer.

Q Now, did there come a time when you became involved in an investigation of the number of welfare tenants who occupied units in the West Side Urban Renewal area allocated to middle income categories, the 70 percent

of middle income families?

A Well --

Q Did you become involved in that?

A Yes.

THE COURT: How did that come about?

THE WITNESS: In 1971, when Columbus Manor and Westwood were occupied, were rented, it came to the attention of CONTINUE, of which I am a board member, that there had been an additional number, significant number, of people, 29 in one building, I think, and 45 in the other building, of families on welfare to whom apartments had been rented outside of the 30 percent allocated units.

Q You mean in addition to the 30 percent?

A In addition to the 30 percent. There was a meeting at Strycker's Bay where this was considered and in fact, because as CONTINUE members we protested this and we wrote letters and telegrams saying that this was in violation of a community agreement about the 30 percent, there was a meeting at Strycker's Bay and a number of families who wished these apartments came to represent their right. They said -- and Senator Ohrenstein I think was at the same meeting -- that they had had apartments committed to them and it would be unfair --

the argument that was presented was it would now be extremely unfair to tell them they didn't have the apartment because they didn't fall within the 30 percent.

We contended that that was a violation of an agreement and substantially altered the percentage of the low income and the middle income allocation in the building.

THE COURT: The question is what did you do, if anything, to see whether or not there had been a violation in fact of that ratio? That is what I want to know.

THE WITNESS: We inquired from HDA which agreed that these apartments had been rented. Subsequently we met with Deputy Mayor Hamilton, in December of that year.

Q Did he say of what year?

A Of 1971.

Q '71?

A Yes.

Q Proceed.

A There were representatives of CONTINUE, Mrs. Aide and Mr. Kagan from the Local Planning Board, Senator Ohrenstein was there and representing the city was Deputy Mayor Hamilton and his assistants and there were

other people but I am not sure who.

At that time he admitted to us that there had indeed been substantial additional numbers. It came, between the two buildings, to 19 apartments.

MR. DOUW: He had in fact admitted there were substantial additional numbers, that line I object to.

THE COURT: The word "admitted" is stricken. Tell us what was said. You don't remember the exact words but what was the substance of what Deputy Mayor Hamilton said? Will you do that, please?

THE WITNESS: There were in the two buildings 46 additional apartments rented, the two buildings being Columbus Manor and Westwood, which were rented simultaneously, 46 additional apartments rented to welfare tenants.

MR. GOLD: Your Honor, is this something Deputy Mayor Hamilton told Mrs. Liebert? I don't understand.

THE COURT: I don't understand it either. There is a great deal the witness would like to tell us and I am sure she is anxious to say what is on her mind and she has been doing it except that right here you have struck a snag and you haven't addressed yourself to it. Please do so.

I ask you because I have stricken the word "admitted," I asked you to tell us the substance of what Deputy Mayor Hamilton said. Would you do that, please?

THE WITNESS: Yes. The substance of what Deputy Mayor Hamilton said was to confirm what we --

THE COURT: That is a conclusion. What did he say?

THE WITNESS: He said there were additional welfare families to whom apartments had been rented in these two buildings. He said it was in violation of the 30 percent, it had been an administrative error. He said that the city took the position that under the Tompkins Square decision no person could be refused an apartment simply because they were a welfare tenant and therefore they took the position that an unlimited number of additional units could be rented to welfare families, and we argued that we did have an agreement about the 30 percent.

THE COURT: Well, Madam, in my humble estimation, that particular piece of evidence is vital. I direct you now to trigger your memory with regard to details of that particular meeting.

We will take a short recess.

Resume your testimony after reflecting on what I have asked you to do, not what you want to do, but what I am directing you to do -- all that you can recall of that particular episode, the details.

(Recess.)

THE COURT: Take your time and answer the question.

A To the best of my memory about that meeting, I in particular spoke at some length with Mr. Hamilton about how it had been possible to rent such a large number of additional apartments to welfare families.

He said that it had been done simply by tenants going and requesting an apartment and having it rented to them, and although they might know that a tenant was receiving public assistance, the question of the Tompkins Square decision came up at that point.

We discussed it at some length and he said that it had been the city's position that on the basis of this decision they simply could not refuse to rent an apartment to

a family receiving public assistance as the criteria of refusing them that apartment.

I pointed out that this obviously made hash of the 30 per cent. You could have 30 per cent on the one hand and another 30 or 40 apartments on the other hand, and you didn't have agreement that we thought we had for 30 per cent.

Q 30 per cent low income --

THE COURT: Let her go ahead. I am trying to get this conversation as she presents it. Let's leave her alone until she is through.

A That you entirely altered the economic makeup of the building. I am saying what I said now.

You had in these buildings now a situation which was at best -- and we thought there might be additional numbers of apartments rented --

THE COURT: Is that what you said?

THE WITNESS: Yes, but at the very best you now had situations in these buildings in which 50 per cent appropriately -- I think it was exactly 49 between the two buildings -- of the apartments were assigned to low income families in one of two ways,either through the 30 per cent or direct rental, and 50 per cent of the building remained available to middle income families.

THE COURT: Is that what you said?

THE WITNESS: That's what I said.

THE COURT: Keep saying it. It is hard to say whether you are telling us what you observed or whether that was a part of the conversation withthe deputy mayor.

A To which he said that clearly this did make the 30 per cent agreement meaningless.

He did think there was an agreement about the 30 per cent which should be upheld. He said that he would, as a matter of policy, direct the people responsible for renting the apartments in all the future buildings that all low income -- all publicly-assisted families to whom apartments were rented would be counted as part of the 30 per cent.

That was, I think, the substance of the meeting.

THE COURT: Let me ask you one more question and then I will turn you over to your counsel.

I am asking you whether the deputy mayor said this, not what your reasoning tells you or what your logic dictates.

Did he make clear to you what he meant by the Tompkins Square directive or mandate and what he meant when he said that the contract of 7-30 must be observed? Did he reconcile those two apparently opposite positions?

Do you understand my question?

THE WITNESS: Yes.

THE COURT: According to you the Tompkins Square opinion, said the deputy mayor, dictated, mandated, that whether you liked it or not, people on welfare had to have a place to live and they were going in there, even though it did upset the formula of 70-30.

Didn't you say that?

THE WITNESS: Yes, sir.

THE COURT: Then you went on and said the deputy mayor said that they would observe the 70-30.

I don't quite understand that. Did he reconcile those two positions or don't you remember whether he did or not? What did he say?

THE WITNESS: May I interpose something I said?

THE COURT: Yes,

THE WITNESS: I took the position that in our circumstances where a particular agreement had been made to allocate the housing, that decision didn't necessarily have to be interpreted in that way. It had not been challenged in a comparable situation or upheld in a comparable situation.

So he took the position then that the city would run the risk of a possible future challenge to this decision

and hold that, and administratively order that, all publicly-assisted families should be counted in the 30 per cent, admitting that that might be challenged.

And we said that we thought that doing that was a better policy and if it were challenged in the courts, we would all abide by it.

BY MR.MORRIS:

Q After that meeting did you make any investigation with respect to the number of welfare families who were located in the various buildings in the West Side Urban Renewal area over and above the 30 per cent allocated to low income housing?

A Yes.

Q Would you tell us what you did?

A Two situations arose that I participated in. One was that in a third building -- I do not remember the exact chronology of events about this -- in Leader House --

Q Is that the third building?

A Which is a third building. There were at the time of the original renting 55 additional units rented to welfare-assisted families beyond the 30 per cent about which we met with Assemblyman Blumenthal.

MR. DOUW: I move to strike for lack of foundation "55 additional units," the basis of her knowledge.

THE COURT: What was the basis of that, Mrs. Liebert? 55 families beyond the limited number for that house or that unit? Where did you get it from?

THE WITNESS: I don't remember the original source, but we heard about it and called Assemblyman Blumenthal.

THE COURT: Objection sustained. That is stricken.

Please proceed.

Q Tell us about your conversation with Assemblyman Blumenthal.

A Subsequently, when the funding of Strycker's Bay was before the board of estimate last spring, we had some conversation with then Comptoller Beame's office, with his deputy, Mr.Carroll.

Q Was he the deputy comptroller at the time?

A Yes.

Q Can you fix the time as of which this occurred?

A The initial conversations took place in the spring, it seems to me, when the funding was before the board of estimate. In the spring.

Q Spring of '73?

A Yes.

Q Proceed.

THE COURT: That is a year ago.

THE WITNESS: Yes.

At the hearing at which I testified Mr.Carroll asked me why I had not given him certain additional information.

In the fall another member, Mrs.Gratz, presented some possible questions to Mr. Carroll that he might inquire about the allocation of housing in the particular units on the West Side.

In response to our suggested questions he got a memo which I have, but in essence the memo from Mr. Crystal--

Q From whom?

A Sam Crystal.

Q Tell us what office Mr. Crystal had with the city.

A He was the chief of the bureau -- I don't know what MI and S stands for.

Q Which office was he in?

A He was in Mr.Carroll's office, in the comptroller's office.

Q Proceed.

A Mr.Carroll prepared a breakdown of the allocation of housing and we particularly included the question about the allocation of additional apartments to welfare-assisted families.

The memo was forwarded to me to look at and make suggestions to Mr.Carroll. I could not make head nor tail of it in fact, so we conveyed this to Mr.Carroll on the phone and the particular questions we had.

At his suggestion I set up a meeting between Mr.Carroll and myself.

Q Mr.Carroll or Mr.Crystal?

A Mr.Crystal. I am sorry.

It was to go over these facts. This meeting was in December, 1973, either the second or third Friday in December.

At that time I went to Mr. Crystal's office in the Municipal Building with this memo and we went over the various problems I had with it, and I asked him to go over it.

He got out his record, some of which we have here, and we went over on a building by building site.

This memo contains specific reference to welfare families inaddition to the allocated apartments, but it was not a building by building breakdown, and I could not make any sense of it unless I knew in a building by building way I could not reconcile it with the figures I had continued to use from the Strycker's Bay conference.

I went over with Mr. Carroll on a --

Q Carroll or Crystal?

A Crystal.

I went over that with him on a building by building basis with his records to see how many additional apartments --

THE COURT: When you say "additional," clarify that.

THE WITNESS: How many apartments in addition to the allocated subsidized 30 per cent, but in some of the earlier buildings, your Honor, it was not 30 per cent. In some of the original buildings was 20 per cent.

THE COURT: Proceed.

A As a result of that --

THE COURT: You went over each and every one of the buildings within the urban renewal area?

THE WITNESS: Yes, your Honor.

At each building I asked Mr.Crystal specifically whether the number of units he was giving me was to the best of his knowledge in addition to that allocated number.

What he showed me, the figures he showed me, was that there was some additional rental of apartments from one to 53 at the time in every building in the West Side in excess of the allocated subsidized building units.

Q You mean the 30 per cent?

MR. GOLD: I object to this line of testimony. There is no testimony, no proof, that these numbers allegedly, that the coomptroller furnished to Mrs. Liebert, were from records kept in the normal course of business by the comptroller's office, and, as a matter of fact, it is our contention that such records are not kept in the normal course of business in the comptroller's office.

THE COURT: Mr. Gold, there is no offer of records right now. This is a conversation between a citizen occupying a home in that particular area with which we are concerned. She goes to the appropriate city governmental unit to make inquiry and she is told by a person who represents himself to be familiar with the problem, who says to her, in effect:

"I have looked at my records and here is what I come up with. In each and every one of the houses within this areas, I am saying to you, Madam, that there is one to 57 units over and above the 30 per cent figure for low income families."

That is admissible. I am not receiving any records yet. I don't know what will be offered but that conversation is perfectly admissible in my humble estimation and accordingly I overrule your objection, and I will receive it.

Now Madam --

MR. GOLD: Excuse me. With deference to your ruling, the comptroller was not the appropriate agency of the city from which to get these numbers if they were available and they were not Mr.Crystal's records we are talking about. That is what I am saying.

THE COURT: Mr. Gold, as to whether or not you are going to contend later on that someone undertook to say something on behalf of the city who had no right to say it, that can be developed and an appropriate motion made at that time to strike.

Right now while the witness is on the stand before me I think practical common sense would demand I receive it, and if you should show anything that will upset it, you can make a motion to strike. I can't keep calling her back after she has left the stand here. I have to take what she has to offer.

There is some basis that would warrant its reception. In my recital, Madam, did I state in essence what you have testified to, what Mr.Crystal said to you on that occasion?

THE WITNESS: Yes.

THE COURT: Did he designate which units had more than one over 30 and which houses had up to 57?

THE WITNESS: Yes.

THE COURT: Did you take figures?

THE WITNESS: Yes, sir.

THE COURT: Did you note what he said to you?

THE WITNESS: Yes.

THE COURT: Are the papers you are looking at papers that you made?

THE WITNESS: Yes.

THE COURT: Were they notations you made while he was talking to you?

THE WITNESS: Yes.

THE COURT: Very well.

BY MR. MORRIS:

Q Tell us what those figures were? Identify them by the site number, the name of the project, and the number of welfare families.

THE COURT: I will take them in evidence if they are offered if they were made by her as a part of that conversation. How she is going to remember without looking at them, what he said with regard to each unit, I don't know.

Q Referring to your notes, would you testify as to what the number of welfare families were as to each property?

THE COURT: You may do that.

Take over and give a complete answer.

MR. LAND: Under the best evidence rule the notes themselves are the best evidence rather than reading from it.

THE COURT: I asked for it. Mr. Morris didn't offer to do it and what you say, strictly speaking is correct. I think I better insist.

Hand me those papers, Madam.

Do these reflect all the notes you made on that occasion?

THE WITNESS: Yes.

THE COURT: Do they contain --

THE WITNESS: The first column is the site number.

The second column is the name of the project.

The third column is the number of units allocated under a subsidized program, 30 per cent, 20 per cent in numbers.

The next column, the fourth column, represents the number of tenants within the subsidized program who are receiving public assistance.

The next column represents additional units in each building rented to publicly-assisted families.

THE COURT: Mr. Land, I did not see anything --

THE WITNESS: May I make an addition?

THE COURT: Yes.

THE WITNESS: There is a separate sheet which lists only public housing.

THE COURT: Mr. Land, I did not look at it t get any information from it but I got enough from my practical experience to show me there has been scratches on some of the figures and therefore we are going to take it both ways. We will have her testimony and we will have her notes.

Do you understand that, Madam?

THE WITNESS: Yes.

THE COURT: I can appreciate the fact while you were there you were not in a position to render a perfect writing, so please break it into two parts.

First, tell me, those two pages are all the notes you made on that occasion in the conversation with Mr. Crystal?

THE WITNESS: Yes.

THE COURT: Tell us what he said with regard to every one of those buildings. Go ahead.

THE WITNESS: In regard to Site 14 --

Q Will you --

THE COURT: Every time I get going on it you come in. Hold it a minute, please.

MR. MORRIS: This will be helpful to the Court because the order -- she is starting with Site 14, and the chart which is the basis for the city's presentation that we stipulated to begins with Sites 1, 2 and 3.

THE COURT: Won't you bear with me a bit. She is giving us what he said and the order in which he said it. Don't you see? That is the reason why we have to take it that way, even though we may have to realign it with other figures and other data.

Give it to me in the order in which he said it to you.

THE WITNESS: Site 24, Trinity House. Of the 57 allocated units, 15 at that time were occupied by welfare-assisted families. Two additional units had been rented to assisted families.

THE COURT: You have to be careful. Two additional? You have to explain that every time. What did he say?

THE WITNESS: Two apartments had been rented in additional directly to publicly-assisted families.

THE COURT: Over and above --

THE WITNESS: Over and above the allocated

apartments.

THE COURT: That is all he said on that particular piece of property, right?

THE WITNESS: Right.

THE COURT: What is the next he took up?

THE WITNESS: On Site 14, Independence House, 23 units were under capital grant and there was no record for the capital grant of the breakdown of the allocated apartments as to the percentage of those apartments rented to publicly-assisted families, but there were in that building 15 apartments rented directly in excess of the allocation to publicly-assisted families.

In Sites 1, 2 and 3, which combine one project, also under the capital grant program, there were in addition to his figure of 76 allocated apartments, 13 apartments rented in addition to publicly-assisted families over and above the allocated apartments.

THE COURT: Next.

THE WITNESS: In Site 13, West Side Manor, also a capital grant program, there were 15 apartments rented over and above the allocated 48 apartments.

THE COURT: Repeat that, please. I didn't get it.

THE WITNESS: In West Side Manor there were 15

apartments rented directly to publicly-assisted families over and above the allocated 48 apartments.

THE COURT: Proceed.

THE WITNESS: Site 6, Central Park Gardens, there were 15 apartments rented directly to publicly-assisted families over and above the 45 allocated apartments.

In Site 10, Columbus House, there were 17 apartments rented directly to publicly-assisted families.

Q Over and above --

A Over and above the 72 allocated apartments of which 29 had been rented to publicly-assisted families.

Q Did you have a program under which --

A Leased public housing. Site 10, the allocated apartments were under a leased public housing program.

Q How many were there?

A 72.

THE COURT: Proceed.

THE WITNESS: In Site 21,which is Columbus Manor, one of the sites I referred to bef[illegible], there were 53 additional apartments rented directly to publicly-assisted families in addition to the 61 allocated apartments of which 26 were rented to publicly-assisted families.

In Site 22, Westwood, there were 29 additional

units rented directly to publicly-assisted families in addition to the 35 apartments allocated under leased public housing of which --

MR. LAND: What site number?

THE WITNESS: Westwood, 22.

-- of which ten apartments of the leased public housing were rented to publicly-assisted families.

In Site 7, New Amsterdam --

THE COURT: Make it a little clearer for me. Please do it as to what was said by Mr. Crystal. Give us first the piece of property and then what the 30 per cent called for, and then: Over and above the 30 per cent there were so many and so many additional apartments to welfare or low income tenants.

THE WITNESS: Yes.

THE COURT: Do it that way for me.

THE WITNESS: Site 7, New Amsterdam. 53 allocated apartments under the leased public housing, 23 of which were rented to publicly-assisted families and four additional apartments were rented to publicly-assisted families.

THE COURT: Say that every time and make the record absolutely clear.

THE WITNESS: Site 5, Towers West, 60 apartments

were allocated through leased public housing, 21 of which were given to publicly-assisted families and nine apartments were rented in excess of that number to assisted families.

In Site 20, Leader House, 84 apartments were allocated under leased public housing of which 32 went to publicly-assisted families and 46 additional apartments were rented in excess of the allocation to publicly-assisted families.

Site 17, which is a co-op and which is the only figure I have a question mark on, and because it was a co-op that figure was in question --

MR. GOLD: I object to that, your Honor. I move to strike that.

THE COURT: That is her best memory of it as to why she cannot give us any information on that one. It has no particular meaning. We are not receiving any data on it.

You are omitting that, are you?

THE WITNESS: Can I offer the question I asked?

THE COURT: What did you ask?

THE WITNESS: I asked how a welfare-assisted family could have a co-op and Mr.Crystal did not know how to reconcile that discrepancy.

THE COURT: Next.

THE WITNESS: 47 apartments were allocated in this -- this is Site 17-- I am sorry.

THE COURT: Correct it if you find you have to. Which piece of property are you now going to talk about?

THE WITNESS: I am talking about Strycker's Bay co-op. There are 47 apartments allocated there under skewed rent. There is no figure for publicly-assisted families other than a figure in question of an additional eight units allocated beyond the 47 apartments.

THE COURT: Is that what he said?

THE WITNESS: That is what his record shows.

THE COURT: I want to interrupt long enough to find out whether those columns were prepared as he went on and talked to you in the order of his talking to you.

THE WITNESS: Yes. This is the order they were on his sheet.

THE COURT: What do you mean by that?

THE WITNESS: He had records he was reading from.

THE COURT: Did you copy from the sheet or what he said to you?

THE WITNESS: What he said to me.

THE COURT: Referring to his own sheets as he talked to you?

THE WITNESS: Yes.

THE COURT: Proceed.

THE WITNESS: Site 11,Goddard Towers, 39 apartments allocated under skewed rental program. One additional unit rented directly to a publicly-assisted family.

Site 16, Columbus Park Towers, 33 apartments were allocated under skewed rental program. There is no breakdown as to the percentage of those families who are assisted, but four apartments were rented directly in excess of the 33 units to publicly-assisted families.

Site 8, RNA House, 41 allocated apartments under the skewed rental program. No breakdown of assisted families in that figure. Three additional apartments rented directly to publicly-assisted families.

Site 12, Jefferson Towers, 38 allocated apartments under the capital grant program. No breakdown as to those units. Five additional units rented directly to publicly-assisted families.

Site 31, St. Martin's Tower, 20 apartments allocated under a capital grant program. No breakdown as to those apartments. Five additional units rented in excess of the 20 apartments to publicly-assisted families.

Site 36, and the last,Turin House. There was a question here as to the actual allocated number.

The number I have is 38, question mark. No breakdown as to the publicly-assisted families in the allocated apartments, but six additional apartments rented in addition to that, to publicly-assisted families.

THE COURT: Isn't there a second sheet?

THE WITNESS: That deals only with verifying public housing units.

THE COURT: Will you offer, please, Mr. Morris --

THE WITNESS: Your Honor, I have a breakdown for the public housing units of publicly-assisted families from his record, if it is of interest.

MR. MORRIS: I didn't ask you for that.

THE COURT: That first sheet, give it to Mr. Morris.

Are you offering that, Mr. Morris?

MR. MORRIS: Yes.

THE WITNESS: These dates are from records of the 28th of October of that year, 1973.

THE COURT: What did Mr. Crystal say, if anything, with regard to that date of October --

THE WITNESS: That is the date from which these figures come, that his records show that these figures existed as of October 28.

THE COURT: Now it is clear.

Show counsel what it is that you are offering so they can see whether they wish to interpose an objection.

MR. MORRIS: May I ask one question.

Q YOu handed me two sheets. Is one the continuation, the second page, the continuation of the first?

A The second page refers only to public housing.

THE COURT: Do you remember I said give him the one sheet.

THE WITNESS: I am sorry.

MR. MORRIS: I offer it in evidence.

(Pause.)

MR. DOUW: Your Honor, this document, is that in Mrs. Liebert's handwriting?

THE WITNESS: Yes.

THE COURT: She said she took those notes while he talked with her.

(Pause.)

MR. GOLD: Your Honor, I will renew the same objection I made before with respect to these numbers, particularly with respect to this document offered. If it goes in as a tabulation by Mrs. Liebert of numbers she received from an employee in the comptroller's office, but not as to the truth of the matters contained therein, then I would see no objection letting the piece of paper go in in

that manner.

THE COURT: I don't know how accurate he was but this is what she says he said to her. That is all I have got.

MR. GOLD: I think with respect to the truth of the matters in the document it is clearly hearsay in my opinion. It is not a record kept in the normal course of business of the city comptroller's office. I will, if necessary, elicit testimony from Mr. Crystal in that respect.

THE COURT: That is up to you.

What do you say right now? You are limiting your objection to what? You say this is all right provided it is understood that this is subject to further evidence dealing with the source of the information upon which Mr. Crystal relied in giving data to this lady.

MR. GOLD: As to the truth of the matters. In other words, I am not sure if there is any way of telling for example how many units outside of a 30 per cent allocation have been rented to publicly-assisted families.

THE COURT: It will be received with that understanding.

MR. MORRIS: The question Mr. Gold raises goes to the issue of credibility.

THE COURT: Not only that issue, but the

issue of accuracy.

He is saying in effect, "Look, this man undertook to give certain figures to this lady. How do we know he was accurate. He may have misinterpreted the very data on which he relied.

"This should be received at face value and subject to an attack on it."

Of course that is always open. Right now what is reflected there and what has been recited here is evidence in my humble opinion until it is attacked, belittled, modified or totally stricken.

Mark it in evidence.

xxx (Plaintiffs' Exhibit 46 was received in evidence.)

MR. MORRIS: That is all I have.

THE COURT: Cross-examination, please.

MR. LAND: May we have a five minute recess, your Honor?

THE COURT: Surely.

(Recess.)

CROSS EXAMINATION

BY MR. LAND:

Q Mrs. Liebert, yesterday you testified that either Mr. Hunter or Mr. Lauria told you around 1964 that approximately 25 percent of the residential units would have low income, is that correct?

A Yes.

Q But today your are testifying, as I understand, that the figure is 30 percent, is that right?

A No.

Q You are not testifying today the figure is 30 percent?

A No.

Q What does this 30 percent mean to you?

A In arriving at the way the 25 percent of the total number of units would be found, various formulas were used for allocating portions of the middle income housing.

Q Let me understand. Your understanding of Mr. Lauria's comment was if you took all the units, including luxury buildings and those which were entirely low income housing projects, the total, take all the units, 25 percent of the total would be for low income as to all units?

A No. It was my undersatnding that the 25 percent applied to new construction.

THE COURT: Only?

THE WITNESS: Only. New high-rise construction only.

Q As to new high-rise buildings, including Mitchell-Lamas and completely public housing, the total of all new -- I presume "new" also applies to new renovated brownstones, is that correct?

A I would have assumed they were included in the 25 percent of luxury houses.

Q So as to newly constructed houses, newly constructed Mitchell-Lama houses, newly constructed cooperatives, plus newly constructed brownstones, the total of that for low income would be approximately 25 percent, is that correct?

A The question of the luxury housing, the inclusion of the brownstones, the luxury housing, did not, to my memory, come up. It is really my memory that we were talking about new construction. We considered, for example, the fact that there would be a luxury housing building at my corner.

Q Yes.

A So I cannot accurately say that 25 percent

included renovated brownstones.

Q In other words, you are not really sure what was meant by 25 percent, is that correct?

A Luxury.

Q Luxury. Does it apply to renovated brownstones?

A I am not sure.

Q But as to something to be constructed, approximately 25 percent of those units would be low income, is that right?

A Yes.

Q But you don't know 25 percent of what, exactly?

A It was my undersatnding that it would be public housing in part and some other allocation of apartments.

Q The 30 percent figure, that relates to the allocation of low income units to newly constructed Mitchell-Lama apartment buildings, is that correct?

A Yes.

Q In other words, there will be some, to your understanding as to the way the plan operated, there would be some completely low income housing projects and the 30 percent ratio does not apply to those buildings? Would you say yes or no?

A Yes.

Q You were also aware part of the project included renovation of brownstones, is that correct?

A Yes.

Q But the 30 percent allocation did not apply to the renovated brownstones, is that correct?

A Yes.

Q The 30 percent then applied solely to newly constructed Mitchell-Lama apartments, is that right?

A No. At the time we purchased our house there was no 30 percent allocation, and I did not discuss at that time any particular allocation of apartment houses, but there was, to the best of my knowledge, a 20 percent allocation in Mitchell-Lama buildings at that time. The 30 percent allocation was a change in the plan which came after my purchase of the house.

Q But that 30 percent applied to newly constructed Mitchell-Lama apartment buildings in the West Side Urban Renewal area?

A Exclusively.

MR. LAND: Your Honor, I am going to now go through the mathematics which were discussed at length with respect to the Crystal meeting. I think it would be helpful if your Honor would have a note pad

to see if these mathematics work out and also to have before you a copy of Exhibit S.

THE COURT: Mr. Land, I don't want to be impolite, but if that was not a part of the conversation, your argument on the computation can be done at another time. This witness has nothing to contribute on that.

MR. LAND: I think she does, your Honor.

THE COURT: How?

MR. LAND: She testified additional units were put in these buildings in excess of 30 percent. I would like to go over her figures with her to see if that is accurate.

THE COURT: That is another proposition.

MR. LAND: That is what I am going to do.

THE COURT: Look, it is important. You didn't say that a moment ago. You had another project in mind.

MR. LAND: That is what I meant.

THE COURT: You can get from her anything that took place within her knowledge on this subject. Your argument as to what that data points up can be done at any time.

MR. LAND: I realize that.

THE COURT: You can even go to the extent of showing how ridiculous that is and make a motion to strike

the whole business, but right now while she is on the stand, and by way of cross examination, I don't see how we need this lady for that. You can clarify anything that took place.

MR. LAND: That is what I would like to do. To make it clear, as we go along I would like to have some exhibits before your Honor to show where we are going.

THE COURT: I would be delighted.

MR. LAND: Since these are mathematical computations, I would like you to see Exhibit S, which we agreed this morning was accurate.

In addition, I would like to have your notes on which you recorded your conversation with Mr. Morris.

May we have that?

We will follow this along.

THE COURT: I will watch that.

MR. MORRIS: Your Honor, may the record show that the testimony Mrs. Liebert testified to was the fact as they existed in October of 1973, whereas the exhibit, Defendant's Exhibit S, is the current situation and if differences appear between the two, may the record show that that is probably due to the lapse of time and the change in circumstances that occurred in the project?

THE COURT: That is part of the argument that

can be advanced at the appropriate time. Right now, however, all we want from this witness is her recollection of what took place.

With that understanding, you proceed, Mr. Land.

Q Mrs. Liebert, it is my understanding from your testimony that based upon the notes you took at your conference with Mr. Crystal you came away with a different impression that as to a number of the Mitchell-Lama apartment buildings there was an excess over and above 30 percent in which low income people resided, is that correct?

A Yes.

Q Total units.

MR. MORRIS: I object to the "total units."

THE COURT: She said yes. I don't know if she understands it. She said yes. He is referring to 46 in evidence.

THE WITNESS: I think I understand.

THE COURT: Next question.

MR. LAND: The purpose of this examination, your Honor, is to demonstrate conclusively that there is not such an excess.

THE COURT: Okay.

MR. LAND: Here we go.

Q The first site you talked about was Site 24 and on Defendant's Exhibit S, Site 24, your testimony, Mrs. Liebert, in respect to that, and this was that there were 57 units allocated to low income apartments, correct?

A Yes.

Q And that there were two additional units then given to the low income?

A Went direct, yes.

Q Defendant's Exhibit S shows that the Trinity House has 199 total units of which 30 percent of those units are 60, meaning that 60 units, based on a 30 percent ratio -- 30 percent of 199 units would be 60 units to be allocated to low income. By your testimony there are 57 units allocated to low income plus an addition of 2, leading to a total of 59. So in fact we are one short of even reaching 30 percent, is that not correct?

THE COURT: I don't see how she can answer that. She hasn't got S in front of her. All she can give us is what she says she testified to. He said to her -- I don't think you understand what I am saying to you. You want to make an argument that what this lady testified

Crystal said to her with regard to Trinity, for instance, listed on S as Site No. 24, is inconsistent with S and couldn't possibly be so, it's knocked into a cocked hat by S; is that what you are saying?

MR. LAND: Absolutely not, your Honor.

THE COURT: Then what are you saying?

MR. LAND: What I am saying is if you take the total number of units in each building about which Mrs. Liebert has testified, you multiply those units by 30 percent, you get a wrong figure. Her testimony is by reason of the influx of additional low income people we exceed 30 percent. That is not so, based upon her notes showing the additional units above those which were allocated to low income.

THE COURT: Mr. Morris, what have you got to say?

MR. MORRIS: I respectfully submit if that is true, counsel is entitled to demonstrate that in his argument before the Court.

THE COURT: That is what I said before. I indicated that. I don't see how this witness can be of any assistance to us except to trigger her memory on any particular testimony that she has given, and to that extent, Mr. Land, I will allow you to go as far as you can

with the witness according to the rules of evidence, allowing you further an opportunity at the appropriate time to point out to me the weakness of that testimony that she gave and that she was not sure of herself and that he couldn't possibly have said that and if he did he was all wrong, and advance any argument you wish to convince me that the testimony should not be relied upon. That's all. But that could be done at another time.

MR. LAND: I think you're right.

THE COURT: Thank heavens.

Did you get that?

(Record read)

THE COURT: I am very, very glad that spontaneously and unrehearsed we have a statement whereby Mr. Land, on behalf of the United States government, made a statement in which the Court is given credit for understanding one small portion of a myriad of almost limitless material. Thank you.

May I encourage youto repeat it on other occasions.

Now let's go.

BY MR. LAND:

Q This is the last question I will ask you about

your conversation with Mr. Cyrstal.

Based upon that conversation and what you believe the figures represented, is it your testimony that by reason of the additional units added to those apartments in addition to what was allocated for low income that it will exceed the 30 percent ratio, is that correct? Yes or no?

A No.

Q You don't know?

THE COURT: She said no.

THE WITNESS: No.

THE COURT N-O.

Q Let me ask you this, Mrs. Liebert. Is it your testimony that by additional units in which low income people have been placed in cooperative buildings in the West Side Urban Renewal area that there will be an excess of 30 percent of low income people in those buildings, yes or no?

A No.

Q There will not be in excess of 30 percent?

A I would not ascribe that reason to any excess of 30 percent. To that question, my answer is no.

Q Mrs. Liebert, when you purchased your house in 1964, you were then aware that approximately 25 percent

of all housing units would be occupied by persons of low income, were you not?

A Yes.

Q That was the plan. Did you have any idea what the total number of units would be in the West Side Urban Renewal area, new units, to which that 25 percent would apply?

A To the best of my knowledge, at that time the figure was 2500.

Q In other words, it would be 2500 additional units of which 25 percent would be low income, is that right?

A Of the total new units to be built 2500 would be allocated to low income families.

THE COURT: He asked you how many units for occupanices by human beings, regardless of economic status, would you know how many units were going to be created by the new buildings. What is your answer?

THE WITNESS: No, I did not.

Q But you were led to believe, were you not, that the new units to be allocated to low income people would be approximately2500 units, is that right?

A Yes.

Q And you were aware, were you not, that there

was to be a public housing project at the corner of Amsterdam Avenue in the block in which you purchased your home, is that correct.

A It was in existence when I bought the house.

Q It was in existence. As to the people which you characterize to be low income, do you associate with such people different social characteristics than to people who are not of low income?

A No. As a whole, no. I mean I don't honestly know how to answer that question. I would not say as a whole. I don't understand the question.

Q Would you associate with low income people as opposed to middle income people a greater propensity to allow their children to play in the streets, yes or no?

A Yes.

Q Would you associate the low income people as opposed to middle income people a greater propensity to have parties until 2:00 o'clock in the morning and break bottles in a playground?

A Some yes.

Q Would you associate with low income people as opposed to middle income people a greater propensity for teenagers to get in fights?

A Yes.

Q Yes?

A Yes.

Q Would you associate with low income people as opposed to middle income people a greater propensity for them to throw rocks at buildings?

A Yes.

Q Would you associate with low income people as opposed to middle income people a greater propensity to open fire hydrants in the summertime?

A Yes.

Q Would you associate with low income people as opposed to middle income people a greater propensity to become drug addicts?

A Yes.

Q Would you associate with low income people as opposed to middle income people a greater propensity of those youths to threaten other youths with physical violence?

A Yes.

Q In other words, those social propensities which you believe to be true were factors of which you were aware when you chose to move into an area in which 2500 units of housing would be for people of this nature, is

that not correct?

A Yes.

Q So you wilfully and voluntarily went into a neighborhood knowing it would have at least 2500 units of low income housing and that these persons would have a propensity for the conditions which I just related to you?

A Yes.

Q And it is exactly those types of conditions of which you had knowledge and were aware of which you now complain is hindering the neighborhood, is that not correct?

A Yes.

Q See if I am incorrect, Mrs. Liebert. What you experienced after you moved into your home was knowing more than what you indicated would occur anyway, is that not correct?

A No, that's not correct.

Q Were you of the belief that the low income people would cease having the social characteristics of which you just testified once you moved into the neighborhood?

A No.

THE COURT: The propensities. You used the

best word for the situation. That avoids all these innuendos that the witness is against people because of color and race and all the rest of it unless you want to so charge by your questions. So "propensities" is a good word. Stick to it.

MR. LAND: May I have the question read back.

THE COURT: Would you, Mr. Wolf.

(Record read)

THE COURT: Do you ask to have that question withdrawn?

MR. LAND: Change the word "characteristic" --

THE COURT: Do you wish to have it withdrawn?

MR. LAND: Yes.

THE COURT: It is withdrawn. Now put your question.

Q When you were in the neighborhood, Mrs. Liebert, were you of the opinion that the social propensities of low income persons as to which you have testified would cease?

A No.

Q When you moved into your apartment, were you not aware that there was a playground adjacent to your backyard?

A Yes.

Q Were you aware that that playground was open all day long?

A Today, yes, daytime, during the day.

Q Were you aware it was open at night?

A No.

Q You testified, I believe, that when you first moved into the neighborhood or within a year or two thereafter that immediately to the west of your house were two or three brownstones into which squatters moved, is that correct?

A No.

Q To the east of your house?

A To the east of my house but the time, if I understand your question correctly, is not accurate.

Q But to the east of your house there are two or three buildings --

A To the east.

Q -- in which squatters did move in, is that right?

A Yes.

Q I forget what year that was that you gave me.

A 1970.

Q 1970. And I think you testified that during the initial time when they were there, in December 1970,

that you participated with them in Christmas parties and Halloween parties.

A No. Prior to that there were on the block, often in my house, there was a Halloween party and a Christmas party in conjunction with Christmas caroling, in which a number of children who lived in the adjoining holding sites had regularly come, occasionally with a parent, but they were activities for the children. Prior to 1970.

Q What are these holding sites?

A The squatter's sites.

Q Squatter's sites?

A They were holding sites and are still holding sites, but prior to the squatters coming in had been used for relocatees and at the time the squatters came in most of the families awaiting relocation had been moved off the site to new apartments.

THE COURT: Are you talking about the parties to which you just alluded as including the squatters --

THE WITNESS: No.

THE COURT: -- or the people who were there before the squatters?

THE WITNESS: The relocatees who were in the buildings before the squatters came in participated.

Q Were those relocatees low income people?

A Yes.

Q But once those relocatees moved out of those buildings adjacent to your home and the squatters moved in, you no longer had any Christmas parties or Halloween parties with their children, is that correct?

A We continued to have exactly the same functions, but the participation ofthe families from that building, with the exception of one or two children who had always come, which has now ceased, continued to take place.

THE COURT: So that to answer the question directly, the children of the squatters did come to the parties or did not?

THE WITNESS: Did not come to the parties.

THE COURT At no time?

THE WITNESS: Never to my knowledge.

THE COURT: All right. Next question.

Q You testified that there was a deterioration in the relationship between yourself and the squatter families, is that correct?

A No. Between ourselves, and I would say all of the families, including the squatter families, but a-l of the families in the holding sites. Squatters and non-squatters alike, I would say the relationship deteriorated

between the people in the brownstones and the people in the tenements.

Q Let me understand this. As to the holding sites we didn't have every one of the people relocated and move out and all squatters come in?

A Exactly.

Q The pattern was that a few relocatees would move out and they would be replaced by squatters but you would still have some relocatees in those buildings plus new squatters, is that correct?

A Well, may I elaborate to clarify this?

THE COURT: Yes, please clarify it.

A At the time just prior, in the six months, approximately, prior to the first waive of squatters who came into the buildings, all but a handful of families in the three adjacent buildings had been relocated and it was contemplated compilated, to the best of my knowledge, that the building would be empty by the end of the summer and construction or demolition, at least, we hoped would start thereafter. But, in any case, we thought the building was being emptied. So there were only a handful of relocatee families left in the building.

In the spring of 1970, a number of squatter families moved in.

Q At that time there were some relocatees still there?

A Yes.

Q Okay. Go ahead.

A Subsequently, additional families in addition to the squatters -- there was one group of squatters who moved in, there were additional squatter families who have moved in, some have moved out, new families have moved in. A number of families have been moved into the building who are emergency ~~vacant~~ vacate families, to the best of my knowledge, as well. So the buildings are now essentially full but the composition differs.

Q The building is now full of squatters and all the relocatees who were there originally are removed?

A No. When the squatters came in, the families who were there who had not yet been relocated out were frozen because all plans to proceed with that site stopped. There are a handful of families, including the superintendent of the building and one or two other families that I have known the whole period I own my house, who are, I assume, relocatees and who are still there.

Q I hate to bring you back to the Halloween and Christmas party testimony, but I think I understand the even after the first squatters moved into those

buildings, nevertheless as to the original relocatee tenants who still remained some of their children continued to come to our Christmas and Halloween parties?

A The children of two families.

Q Then, as I understand your direct testimony, the relationship with those low income people, including both the relocatees and the squatters, began to deteriorate, is that correct?

A Yes.

Q Could you tell us the cause, if you know, of the deterioration of the relationship between yourself and the low income people in the adjacent buildings?

A I can only give a speculative answer. I can give you my opinion on it. I don't know as a matter of fact.

THE COURT: You were asked for it.

A It is my opinion that the squatter issue in particular and the various fights that have gone on in the community, particularly about Site 30 and about the squatters, in which repeatedly at public meetings the brownstone owners have been identified as those people opposed to the interests of low income people and particularly and admittedly opposed to the squatters' claims to have the building or have some place on

the relocatee list, has polarized a feeling in the community that there are the rich, if you will, who own the brownstones who have a particular set of -- have one kind of self interest which is opposed to that of the low income families, and at least before that period, although there were debates in Strycker's Bay when I was there, I did not feel that kind of polarization that the brownstone owners and low income people could not have a common interest in the completion of the Urban Renewal plan existed. Particularly in Strycker's Bay meetings. The brownstone owners were identified as the ones against more public housing, as against the poor, exploiting the poor, having pushed people out of the brownstones in order to have luxury housing for themselves.

And so it is my opinion that there was a very deliberate and certainly very concrete exasperation of a kind of anti-brownstone feeling, anti-home owner feeling among low income families.

Q Prior to the time --

A May I go on? At least among those low income families like those in the tenements who were particular vulnerably situated. They didn't know what they were going to get in the end and they saw themselves as

fighting for, you know, housing they badly needed as opposed to those people who did not want the housing allocated to them.

Tk 5 pgb-1 Liebert-cross

Q I assume by reason of your understanding of this polarization of interests that you believed that that was the cause of the deterioration of relationships that people in y our block previously had with the people who lived in these sites?

A Yes.

Q As to yourself, I presume that prior to the time of this deterioration you had a reasonably social relationship with the people who lived in these buildings, for example, when you were out in the street in the morning walking to the store and you saw one of your neighbors, you would say "hello" to her, "nice day, isn't it?" Or some pleasantry like that? Would that be accurate?

A Yes, with one or two families whose children were the same ages and regularly placed with mine.

Q You personally don't have this feeling of polarization, do you?

A Yes.

Q You do?

A Yes.

Q In other words, the feelings that were expressed against the brownstone owners at the Strycker's Bay meetings at which you testified, you hold those beliefs?

A No. I misunderstood the question. I am sorry.

THE COURT: The record doesn't show which she misunderstood.

You mean the former question?

THE WITNESS: Could I ask to have the questinn read.

THE COURT: You better.

Repeat your question, Mr. Land. That would be the easiest. Put your question again.

Q Do you, yourself, have an antagonism against the interest of low income people who currently reside in the West Side UrbanRenewal area?

A I don't believe so.

Q From that may I assume that you, yourself, never spoke harsh words, derogatory words, toward your neighbors who are low income? You never contributed to the deteriorating relationship personally, is that correct?

A I don't honestly know how to answer that question because, for example, when I deliberately, as the representative of the block, complained and brought over the superintendent and complained about the work that a tenant -- the superintendent, who is one of the old families in the building, who I have known,and one of the families whose children came into my house -- and I complained about the work he did in the building, he certainly viewed

that as my contribution to the deterioration of relationships.

THE COURT: That is his view. You were asked about your view.

THE WITNESS: My view, no.

THE COURT: The answer is no.

Next question.

Q Could you explain to us the incident about the complaint about one's work in this building. What was that about?

A I brought the person in charge at the West Side Urban Renewal site office where they are in charge of the maintenance of the holding site to view the garbage and the general condition of the building early in the morning.

Q What did you say to him?

A I said to him, "Nobody picks up the garbage and nobody sweeps it up and it is filthy all the time."

He came with me and we looked at the site and the accumulations of garbage down in the lower entryways -- it has a lowered area in the front of the buildings. We looked at the condition of the building and discussed it.

The superintendent of the building saw me do this.

Q The superintendent who resided in one of the

holding sites saw you complaining to the neighborhood representative?

A The city official in charge of maintenance.

Q That there was accumulation of garbage inside or outside of the building?

A Outside the building and in the entranceway and recesses in front of the building.

Q Were there garbage cans there?

A Yes.

Q WAs the garbage in the cans?

A No.

Q What other condition of the building did you complain about? That there was no paint on the building?

A There are railings, for example -- there are deep recesses in the building; there is a stoop and below that there are areas below the street level. There are fences around that, railings around that, which are -alling into disrepair and there are sections where there are no railings at all.

THE COURT: So it is open?

THE WITNESS: So it is open.

THE COURT: Unprotected?

THE WITNESS: Yes. Where the children play. That kind of thing. But the main gist of my complaint was

that the superintendent was not doing his work in seeing that the front area of the building was kept clean, particularly as to during the day when the garbage and the litter accumulated on the stoop.

THE COURT: This is the same episode you testified to in answer to Mr. Morris?

THE WITNESS: Yes.

THE COURT: Then you said that the superintendent took you to task?

THE WITNESS: Yes.

THE COURT: What did he say?

THE WITNESS: When I came home later that day he said to me, "What were you complaining about?"

And I said, "I was complaining about the garbage."

And he said, "Never mind the garbage. You are anti-Puerto-Rican."

And I said, "Never mind that. I just want to get the garbage picked up."

We had a loud altercation then.

THE COURT: That kind of episode, multiplied, in your belief attributes for what you call the anti-brownstone reaction by the lower income people? Is that what you are saying?

THE WITNESS: Yes.

THE COURT: But as to you, yourself, insofar as your conscience, your opinion, your attitude, your approach, your evaluation, that does not enter into it?

THE WITNESS: Yes.

THE COURT: Is that your position?

THE WITNESS: Yes.

Q Prior to the time you complained to the city official about the conditions of which you testified, did you first speak to the superintendent about those conditions?

A Yes, and --

THE COURT: That is the answer.

Q Is that the same superintendent you are talking about?

A No.

Q Did this incident with the superintendent occur before or after the children residing in those holding sites ceased playing with your children and coming to your Halloween and Christmas parties?

A After.

Q In othe words, the cessation of the relationship between your children and their children came before this incident with the superintendent?

A Yes.

Q How soon before?

A Three years before. This incident was last spring.

THE COURT: "This incident" means what?

THE WITNESS: The incident with the superintendent was in the spring of 1973.

THE COURT: Next question, please.

Q You testified that you have two children, is that correct? Do they go to public schools in the West Side Urban Renewal area?

A No.

Q What school do they go to?

A Dalton School. A private school.

Q When you moved into the area did you consider sending your children to public school?

A No.

Q Why?

A I only had one child at that time of school age. I really made the grounds on the basis -- I thought he would find public school too easy, to be honest.

Q When did this incident of the gypsy cab driver parking in front of your house playing a loud radio occur? What year?

A Spring of '73.

Q Has it happened since then?

A No.

Q Never happened before then?

A That, no.

Q Did it happen for one night?

A That incident, yes.

Q I believe you testified that you had a number of tenants residing in your garden apartment, is that correct, since 1964?

A Yes.

Q You went through the list in your direct testimony. I would like to do that too.

When did the first tenant move in?

A 1967, just after we m oved in ourselves.

THE COURT: Mr. Land, her dates on that score, I remember distinctly, they are uncertain. You have a right to inquire into it, but I don't see any need to waste time.

Madam, you have not reflected on those dates the tenants that you have had, since you testified yesterday?

THE WITNESS: No.

THE COURT: We cannot finish the cross before lunch. It is twenty minutes, 15 minutes more.

She is going to have to come back. Maybe you can pick it up and that will save time. Concentrate on that

so that you can tell us that such and such a person or name occupied so and so at such and such a time. Do that, please.

Go to something else.

Is that it?

MR. LAND: No, no.

I will go to something else, your Honor.

Q You testified there was a guard on the block.

A At the holding site.

Q He stands out in front of the holding site?

A In front of the holding sites.

Q What are his hours of work?

A As far as I can tell, and his presence seems somewhat erratic, he arrives in the late afternoon. I don't know when he leaves, but I think he arrives about five o'clock or four o'clock. In the summer I am not there all summer, but in the summer he appears to be there longer hours. It has been inconsistent. Sometimes he has just appeared to me to be there on the weekends, but the last few weeks I have seen him there regularly in the late afternoon and evening.

Q Is he employed on a twelve month a year bawis?

A I don't know.

Q Just in the summertimes?

A No.

THE COURT: She doesn't know that. How could she know it? It is not under her control. She can only tell you what she observed with regard to his hours there from her observation.

Q Is he in uniform?

A Yes.

Q Does he have a gun?

THE COURT: Do you know?

THE WITNESS: I don't know.

Q Does he have a billy club?

A Yes.

Q Does he live in the building there?

A I don't think so.

Q And I understand your next door neighbor is Mr. Fine, is that correct?

A Yes,Dr. Fine.

Q Have you had occasion to look into Mr. Fine's back yard recently?

A Yes.

Q Are there tulips growing there, red tulips?

A There are some now.

Q Is it sort of a flagstone backyard?

A It is brick-surfaced with brick planters at the

back of it.

Q Currently are the planters full of flowers, to your knowledge?

A Well, there are some flowers growing in it that have bloomed.

Q Is there a tree growing in the back yard, even two trees growing in the back yard?

THE COURT: If you know.

THE WITNESS: I don't know. They are small if they are trees.

THE COURT: Let's proceed.

Q Have you seen the tenant recently out in that back yard acting in a manner which appeared to mean that he was enjoying himself?

A Yes.

Q Recently?

A Yes.

Q Could you tell us how often you have observed this tenant using Mr. Fine's back yard? Once a week, twice a week?

A I could not tell you.

Q But occasionally?

A Occasionally.

Q Not on a regular basis?

A None.

Q What price did Mr.Earl Monroe pay you for your home?

A $145,000.

Q How much did you pay to purchase your home?

A We paid $35,000.

THE COURT: Didn't you tell me yesterday you obligated yourself?

THE WITNESS: Yes. I am trying to -- that is the price I paid the owner, but that is not the price of the mortgage I got to renovate the house and -- that was not the full price that it cost us to be able to live in the house. That is merely --

THE COURT: I think counsel would like to know that.

Q What was the total cost to you?

A The total cost to us, including relocation of the tenants and the renovation and essential things in the building was approximately $120,000.

THE COURT: That is what I thought you said yesterday.

Next question.

Q From these figures I imagine you have made a profit of approximately $23,000?

A Well, when we have paid the fee and the tax involved in transferring the property which will amount approximately, it seems to me, the lawyer's fee, the real estate agent's fee, and the property tax which we pay under the contract, that will amount to close to -- between ten and $15,000. I estimate at this time. Not knowing all the final costs, that we will have made between ten and $15,000 profit over the past ten years on that house.

MR. LAND: That will conclude my cross-examination.

THE COURT: Except for the tenants.

MR. LAND: Yes.

THE COURT: We have ten minutes. I offer it to you. I will keep my word. We will recess at 1:00 and resume at 2:00.

Should I use that time in making a couple of announcements?

MR. GOLD: I would prefer to start after lunch.

THE COURT: You may resume the stand at two o'clock.

Gentlemen, please make a note of this: When we resume on May 6th, we go to Room 2704 at noon.

In view of the fact that there will be a memorial service to a beloved friend and great jurist,

former Presiding Jurist Botein, I will insist that I be in attendance to hear and participate in that memorial service which takes place at four o'clock at the Bar Association. I will leave here around 3:30 in order to be able to make it and be in my seat before the proceedings get under way.

Then I will return to the courthouse. You should too. Have your dinner because we get together Monday, 7:30 in the evening. We will sit until ten o'clock on Monday.

We will start at noon and we carry on with a proper time for lunch until 3:30 or thereabouts. We then renew the taking of testimony on Monday, May 6, at 7:30 P.M. and go for a period of approximately two and a half hours, until ten o'clock.

Gentlemen, the Court is asking and is directing, on the record, that between now and the close of Monday, May 6, you advised the Court what in your good judgment, after carefully figuring -- and not just a rough guess -- how much more time will be required to complete the taking of testimony in the entire case, both sides.

I am entitled to know that so I can fit all my commitments in accordingly.

I hope I have made myself clear on that, gentlemen.

MR. LAND: The evening, Monday night, I am not sure whether or not I can attend based upon my family commitments, but I will check--

THE COURT: I have family commitments too. I give up everything and have all my 36 years of judicial life. I will continue until I sign off. I am afraid I can't recognize it unless it is some important event that really has significance. If you don't want to state it on the record, I will be glad to commiserate with you and take it up on the side, and if I can possibly oblige you, I will. I know what it means to give up these things too.

Suppose you step into the robing room where you can feel a little more free to express yourself off the record. If I can in some way oblige you, I will change the schedule.

Come in.

(Luncheon recess.)

End 5AM

AFTERNOON SESSION

2:00 P.M.

(Trial resumed)

THE COURT: After talking with Mr. Land, we will change the hours on Monday. We will start at 12:00 and carry on until 3:30, and then I will go up to the Bar Association for a memorial service and then come back. I can't get out of there until the meeting is adjourned. Out of respect I have to remain there. I will make it by 5:30 here and we will carry on from 5:30 or 5:45 until about 7:00. But we will sit for about an hour and a half after I come back from the Bar Association.

All right.

LISA KOLB LIEBERT, resumed.

MR. MORRIS: Has the Court come to any decision when we will sit next week?

THE COURT: Yes, we will sit right through.

MR. MORRIS: We can assume we will sit regular hours, 10:00 to 5:00?

THE COURT: Yes, certainly on Tuesday, Wednesday and Thursday.

Madam, have you got that material?

THE WITNESS: Yes.

THE COURT: Without any further involved questions, just answer the question.

Who occupied the premises that you owned and how long and so forth?

THE WITNESS: We rented for the first time in September of 1967 to a couple who actually occupied the apartment but for two years and held the lease for a third year. They went to California and held it and sublet it for a period and then we signed a new lease in September, 1970, to two young women. They left, breaking the lease.

THE COURT: When?

THE WITNESS: June 30, 1971. The apartment then remained vacant. We tried over the summer to rent it but were unable to do so until September, 1971. The couple we had in there were transferred then in the middle of the year and we re-rented the apartment to another couple in January, 1972, who were also transferred and we re-rented the apartment the last time, the tenants who are still there, in June of 1973.

CROSS EXAMINATION CONTINUED

BY MR. [illegible]LAND:

Q Was this apartment you rented on the ground floor, the garden apartment?

A Yes.

Q Prior to the time you went into the leasing of your ground floor apartment, had you had any prior experience leasing buildings or apartments to tenants?

A No.

Q You testified you are moving now to Central Park West and 72nd Street?

A 73rd.

Q Are you leasing any portion of that building to somebody else?

A No.

Q Are you renting?

A It is a rental apartment.

Q Did you experience difficulties or unpleasantness with the mechanics of having to lease apartments and maintain an apartment in your own building such that if you had the choice you would just as soon not be bothered with it?

A Well, our original decision in fact was not to be bothered with it, was to use that ground floor for

my husband's office, so that we didn't contemplate at the time we purchased the house actually having to have a tenant. But he judged that the neighborhood was not pleasant enough at that point to have patients coming particularly at night, so we rented it.

THE COURT: Next question.

Q What was the approximate monthly rental on your garden apartment?

A It was approximately $280 when we rented it the first time. It is now about $300.

Q You say your husband desired to use -- initially desired to use that space for his office, is that correct? In what business was your husband?

A My husband is a psychoanalyst.

Q Is he active in the practice of psychoanalysis or does he teach it?

A He is active in the practice of psychoanalysis but he does teach.

THE COURT: Next question.

Q The final question. The building next to yours, in the backyard of which there are tulips growing and in which you have seen the person enjoying himself, is that building owned by Dr. Jerome Fine?

MR. MORRIS: I will object to the "person

enjoying himself."

THE COURT: Objection sustained. Strike it.

Is that owned by Dr. Fine?

THE WITNESS: Yes.

THE COURT: Next question.

MR. LAND: That's it, your Honor.

Thank you.

THE COURT: Mr. Gold.

CROSS EXAMINATION

BY MR. GOLD:

Q Mrs. Liebert, I want to establish, so I understand what I am talking about and so that the Court understands, exactly where 113 West 88th Street is located.

Could you describe in terms of the buildings in from Columbus Avenue how many buildings in?

A Well, what appears to be one large building has in fact four, I think, addresses. It's 109, 107, 105 -- three addresses. I am not sure what the number of the corner building is, but it has three doorways but it is, in effect, one large building. After that, which is what I referred to as the holding site, there is one brownstone, 111, and I am the second private house in from the corner.

Q And next to it on the opposite side of 111 is 115, which is the Fine house.

A The next house.

Q And 111, is that a brownstone -- excuse me -- that has been renovated?

A Yes.

Q Has that been renovated basically in the same type of way as your own?

A I have never been inside it, but I know that although it is owner occupied it has a number of small rental units in it.

Q Okay. From the point, then, after 111 as you go toward Columbus Avenue there are no further renovated brownstones?

A No, that's not true. There are renovated brownstones in the remaining portion of the block.

Q I am talking about on the lower numbered side as you walk east from your house.

A Yes, you are right, there are no renovated brownstones.

Q Except for 111?

A Except for 111.

Q On the opposite sidewalk west from your house staying on your side of the street, are there any other

brownstone buildings that have been renovated?

A I am not clear. In the block going from Columbus Avenue to Central Park West?

Q No, in the block going -- you live on the block between Columbus and Amsterdam?

A Right.

Q Let's stay on that block on the north side of 88th Street. That's where you are?

A Yes.

Q Now, you are walking from your house west toward Amsterdam. Are there any renovated brownstones on that side of the street?

A Yes.

Q And could you describe them or could you tell us how many, if you know?

A I am not sure. There are four or five that I know are renovated. There is one which is still a rooming house, maybe a Class A rooming house. There are several empty houses which are presumably owned to be renovated but are standing empty. There are a couple of unrenovated brownstones that have been lived in for many years.

Q Conservation, part of the conservation?

A Yes.

Q In your estimation, would you say that those unrenovated brownstones are good buildings?

A I don't understand what's a good building.

Q In your estimation.

A Yes.

Q They are. Okay.

Is there any other type of structure as you walk west on the north side of 88th Street except for brownstone structures?

A At the corner of Amsterdam running from 88th Street to 89th Street there is a public housing project.

Q I see. Housing Authority project?

A Housing Authority building and a playground on 88th Street which adjoins -- there is a playground somewhat raised which adjoined the Housing Authority building.

Q Okay. Now, that would be east of the Housing Authority building, correct?

A Yes.

Q Okay. Do you know how many units are in the Housing Authority building on Amsterdam between 88th and 89th?

A I think 160.

Q 160. And at the time that you took possession

of your brownstone, was that building in existence?

A Yes.

Q On the opposite side of 88th Street, are there renovated brownstones?

A On the south side.

Q South?

A Yes.

Q Quite a number?

A Yes.

Q As a matter of fact, is that the side of the street that Dr. Arthur Logan lived on?

A N-. Dr. Logan lived on the side I live on.

Q On the same block but on the north side?

A Same block, same side further down towards Amsterdam Avenue. I don't remember the number but I think it's 125.

Q Let's move again across the street to the southerly side of 88th Street. You said that there were renovated brownstones. Do you know how many?

A No.

Q Is the entire block renovated brownstones?

A No. There are a number -- there have been a number of houses -- one is being renovated now. There are a number of houses -- by "renovated brownstones" do

you mean renovated into a two-family dwelling or a house comparable to mine or just renovated in any way?

Q I mean renovated either similar to yours or redone in some way?

A On the other side of the street there are a large number of brownstones which have been renovated into small rental units.

Q Privately?

A I assume so, yes.

Q Do you know how many of those buildings have been renovated in that way?

A I don't know. Four or five I am sure of.

Q And some of the buildings on the southerly side have been done in the manner that your house has been done; is that correct?

A Yes.

Q Okay. So that 88th Street, both north and south side, would you say that that is a fairly well developed street with respect to residential housing?

A Yes.

Q You would?

A Yes.

Q Is it a tree-lined street?

A Yes.

Q When you had the various conversations, two conversations, I believe you testified to, with Mr. Lauria and Mr. Hunter or both, I think you said that the first one occurred, if I recall, in 1964.

Does that sound right?

A Yes, that sounds right.

Q And at that first meeting that was a time that they both talked to you and you talked to them about the area, is that correct?

A Yes.

Q Were they both there?

A They were both there at some time during the meeting. I do not remember that they were both there for the whole time I was there.

Q And this was in the HRB at that time site office, is that correct?

A Yes, on 89th Street.

Q And that was located, again to get a perspective, on the corner of 89th and Columbus; that would be the southeast corner of 89th?

A No, in the middle of the block. It is now the Strycker's Bay office.

Q I see. It was in the middle between 88th and 89th on Columbus?

A It was on 89th Street between Columbus -- in the middle of the block between Columbus and Amsterdam, on the north side of the street.

Q Fine.

Did you go with your husband?

A No.

Q You went there alone?

A I went there alone.

Q Was anyone else in the office except for Mr. Lauria, Mr. Hunter and yourself?

A I believe at one of the meetings Mr. Haldenstein came with me.

Q Let's take the first meeting, number one meeting. Did that occur, again, in '64?

A Yes, they were all in '64. They were prior to our purchase of the house.

Q Was it the latter part of '64, would you say?

A I would say around the middle of the year and into the spring because we considered an earlier house.

Q And the number one meeting with Mr. Lauria and Mr. Hunter at this city office in the area, you, Mr. Hunter and Mr. Lauria were the three people in the office having a discussion. Mr. Haldenstein, was he with you at the time?

A I think it was the second. I think no.

Q The first meeting?

A I think no.

Q What was the purpose for your coming into the site office that particular day?

A We were at that point seriously committed to buying a house somewhere in the urban renewal area. We had seen one house that we were somewhat interested on that.

Q Where was that?

A 89th Street, the block between Central Park West and Columbus.

We wanted to know how long the renewal program would take, what were the projections.

Q You say "we," --

A I wanted to know, for my husband and myself --

Q Go ahead.

A -- what was planned on the various sites and what we would have to comply with in order to renovate a house in the urban renewal area.

Those first questions were very general in nature. We had no particular plan to renovate a house at that point.

Q I believe you also testified that you were most concerned with the sites or the area around the brownstone which you contemplated purchasing, is that correct?

A Ultimately. At the first meeting, to the

best of my recollection, we were not contemplating buying the particular house. It was the next block that we did buy a house on.

Q You were still thinking about 89th Street when you went into the first meeting?

A Yes, and we were still thinking about the stages of development as a whole. We were considering buying houses up in the first stage. We considered the proposed development of the project.

Q Did Mr. Lauria or Mr. Hunter or either of them discuss with you in any way the stages involved in this urban renewal process?

A Yes. They explained that it was intended to go stage by stage.

Q What did they tell you about it going stage by stage? Where was the first stage?

A The first stage was from 96th Street through 94th Street, to the best of my knowledge.

The second stage would then go from 94th to 90th.

We would be on either 88th or 89th, that would be the third and last stage.

Q So that in contemplating purchasing a brownstone on 89th Streets and then later purchasing one actually on 88th Street, you always knew that you would be in the very

last or third stage of the entire urban renewal plan?

A Yes.

Q Was it your understanding that you might be living on 88th or 89th Street and a lot of the area around you would remain undeveloped for a period of time?

A Yes.

Q While up in the northern part of the area all kinds of things might be happening, is that correct?

A Yes.

Q You fully understood that?

A Yes.

Q How long did this first meeting take? How much time elapsed during this first meeting with Mr. Lauria and Mr. Hunt?

A To the best of my knowledge and recollection, 45 minutes to an hour.

Q There came a time when you then had a second meeting also in 1964. Was that shortly after the first meeting?

A It was several months later. It is my recollection that the first meeting was closer to January and the second meeting was closer to April.

Q At the second meeting, I think you testified that was devoted to the problems of financing and renovating

the brownstone?

A Yes.

Q Mr. Lauria and Mr. Hunter, were they helpful to you in that direction?

A Yes.

Q At that time were you there by yourself with the two of them?

A At the second meeting it is my recollection that Mr. Haldenstein was there.

Q The broker?

A Yes.

Q And your husband was not?

A No.

Q Was there anyone else in the office at the second meeting?

A Not to my recollection.

Q How long a period of time did that meeting take?

A An hour to an hour and a half, a little longer than the first.

Q Did Messrs. Lauria and Hunter show you plans and other things involved in putting together this brownstone?

A No. We had gone over the map and the sites at the previous meeting, the general plan of development and

the particular things. I don't remember any --

Q Did they go over plans or show you any plans in connection with the renovation of a brownstone at that second meeting?

A I don't remember any plans.

Q Did they discuss with you or you with them methods or vehicles of financing the renovation and purchase of this brownstone?

A Yes.

Q Did they discuss with you requirements of the city in connection with that renovation?

A Yes.

Q That was the meeting, correct, basically?

A Basically.

Q I think you said you received from Mr. Lauria and Mr. Hunter, or either one of them, at one of these meeting this book, is that correct? This is Plaintiffs' Exhibit 13 in evidence, entitled "Rehabilitation in the West Side Urban Renewal Area."

(Pause.)

A I did. I did not testify -- maybe Dr. Fine, but --

Q Did you receive it?

A Yes.

Q Did you read it?

A I think so.

Q I refer you, Mrs. Liebert, to Page ii. It is near the beginning of the book. This is Plaintiffs' Exhibit 13. I would like you to direct your attention to the second full paragraph on that page which reads:

"A field office has been established at 167 West 89th Street, New York, New York. Telephone number TR3-7200, directed by Mr. William C. Hunter. This office will process applications for purchase and sponsorship and furnish guidance and advice with respect to architectural and financial requirements and assistance. Mr. Joseph Lauria is the mortgage analyst assigned to this office."

Did you read that at the time you received this book?

A I don't remember.

Q When you discussed with Mr. Lauria and Mr. Hunter on the first meeting the plans generally for the development of the area, did you inquire as to the authority of either Mr. Hunter or Mr. Lauria in connection with what they were telling you about the development of the area?

A No.

Q Did you understand this office located at 167 West 89th Street to be an informational type office?

A Well, I understood them to be official representatives of the city.

Q Did you think this office located at 167 West 89th Street, which I assume is the one we are speaking about, was, in your mind, an informational office?

A Yes.

Q Did either Mr. Lauria or Mr. Hunter ever make any statement to you in relation to a 70 per cent middle income-30 per cent low income economic breakdown plan for the area?

A No.

Q Did you ever ask Mr. Lauria or Mr. Hunter what the percentage breakdown was?

A The 70-30 breakdown? No.

Q Did you ever ask him about any percentage breakdown?

A No, other than the general distribution of the new housing as a whole. Nothing that pertained to any particular building or group of buildings.

Q This was a very general conversation, is that correct?

A Yes. I was interested in what the overall mix in the neighborhood in income would be.

THE COURT: What was said on that occasion? That

is what he wants to know about.

A He told me that 25 per cent of the new housing was planned, to the best of my recollection, for low income families; that 50 per cent would be middle income and 25 per cent would be luxury housing.

Q He said that was the plan? This was in 1964.

WEre you aware of the fact in 1964 that the original plan for the West Side Urban Renewal area had been approved in 1962?

A No.

Q WEre you aware that in 1964 a number of changes had been approved by Government, by the City Government between 1962 and 1964, to that original plan?

A No.

Q Did you inquire of Mr. Lauria or Mr. Hunter whether or not the plan could be changed?

A No.

Q Did you inquire of Mr. Lauria or Mr. Hunter whether or not the plan had been changed in the past?

A No.

Q Did you ask Mr. Lauria or Mr. Hunter for a copy of the plan?

A Not to my recollection.

Q Have youever asked anyone from the City of New

taking a position at that time.

York for a copy of the plan?

A Yes. I have seen copies. I cannot remember --

Q Did you have a copy of the West Side Urban Renewal plan, the latest revision, at the time you took title to your brownstone?

A To the best of my recollection I had seen it. Whether I had a copy of my own, I don't know.

Q You had seen it?

A It seems to me Mr. Haldenstein may have shown me the plan. I did see some plan and I did go over a map in considering the sites around my house.

Q You were concerned then with the sites around your house, is that correct?

A Yes.

Q Were you aware of what was planned for Site 39, which is located on the southerly side of 89th Street between Columbus and Amsterdam at the time you went over this map?

A I am sorry. Which?

Q Site 39, located on the southerly side of 89th Street between Columbus and Amsterdam Avenue.

Were you aware of --

A Southeast or southwest corner.

Q It is about one-third in to 89th Street, west of Columbus.

the Site 30 designation?

A The playground?

Q Were you aware of that playground?

A Yes. We were aware of that.

Q Was that playground ultimately developed?

A Yes.

Q Is that what is referred to sometimes as "The million dollar playground"?

A I have not heard that phrase, but I know it was a very expensive playground.

Q WAs that playground designed, if you know, a resident of the West Side Urban Renewal area?

A Yes.

Q Do you know that person'a name?

A Yes.

Q Can I have it?

A Paul Friedberg.

Q That playground backs up on your property, is that correct?

A Yes.

Q Did you ever inquire of Mr. Lauria or Mr. Hunter at the time that you had your discussions about what was to be developed on Site 36, that is the site on the east side of Columbus between 89th and 90th Streets?

A Not to my recollection.

got that?

Q That is not too far from where you were contemplating buying a brownstone particularly at the time you were contemplating one on 89th Street, is that correct?

A Right.

Q As a matter of fact you indicated that you contemplated buying something between Columbus and Central Park West on 89th Street?

A Yes.

Q Were you aware at the time that you met with Mr. Lauria and Mr. Hunter that Site 36 at that time was scheduled for public housing?

A I do not recall that.

Q But you do recall being interested in particularly the Stage 3 portion of the plan, isn't that correct?

A Yes.

Q That is what really was close to where you were going to buy?

A Yes, particularly those buildings which would be adjacent to us and particularly those corners because we are almost immediately adjacent to the corner, the two buildings which would be immediately close to our house.

Q That would have been Sites [illegible] and 44, is that correct?

A Yes.

Q Are you aware of the fact, by the way, that the State of New York, Division of Housing, is going to undertake development on Sites 40 and 44?

A I am not aware that they are at the moment contemplating Site 40 because I understand there is a problem. 44, yes.

Q 41 and 44. I beg your pardon.

A Yes.

Q Those are contemplated to be M itchell-Lama developments?

A 236 funding.

Q Mitchell-Lama developments with 236 funding?

A Yes.

Q At the time that you had your discussions with Mr. Lauria and Mr. Hunter, did they discuss with you a 400-unit public housing project known as Stephen Wise Tower that is located between 90th and 91st, Columbus and Amsterdam, the middle of the block?

A To the best of my recollection it was built at that time. I don't remember discussing it, but I knew -- I think it was already constructed.

Q This was, you say, late '64, early '65?

A Yes.

Q You were not too concerned with the 400 units

second stage the site and I felt that a site [illegible]

over there?

A No.

Q That is actually partially on 90th Street? Do you consider that part of Stage 2 rather than 3?

A I think so.

Q Did Mr. Laura or Mr. Hunter ever give you anything in writing which stated that there would be a particular proportion of middle to low income families in the West Side Urban Renewal area?

A As a personal statement to me? Yes.

Q Did they ever give you anything in writing, either one of those two gentlemen?

A No.

Q Did you ever request anything in writing from either one of those two gentlemen?

A No.

Q Did either one of those two gentlemen ever tell you that there were going to be 2500 low income units in the Urban Renewal area?

A I don't remember that they did.

Q Did you ever ask them for a particular number of low income units that were planned for the Urban Renewal area?

A No.

Q Were you in your purchase of the brownstone represented by counsel?

A Yes.

Q Is that the same counsel that is representing the plaintiffs in this lawsuit?

A No.

Q By the way, when you took title did you take title in the name of both yourself and your husband?

A Yes.

Q Aside from the two meetings with Mr. Lauria and Mr. Hunter that you testified to, and I think you said a good deal of walking around the area, some discussions with your broker prior to purchasing the brownstone, did you meet with anyone else representing the city of New York or its housing agency with respect to discussing what the area would be like or what was planned for the area?

A No.

Q Mrs. Liebert, when did you move into the fully renovated brownstone?

A June 30, 1967.

Q I think you testified that the squatters, or some squatters, came into the 88th Street after the middle of '70.

A Spring.

A Yes.

Q In the three years between '67 and '70, would you say you were fairly happy with what was going on in the area?

A Yes.

Q You were?

A Yes. It was proceeding perhaps at that point already much more slowly, whan we had hoped.

Q You were aware of the fact that there was nothing concrete about a finishing date for the area?

A By then.

Q Did anyone ever in '64 or '65 say to you, "We absolutely are going to finish this area in 1970"?

A No.

Q Did you at any time ever take the position that you were interested in having the conditions of the squatters improved where they were living? Did you ever take that position?

A Yes.

Q And that you might want the city to enter into some kind of agreement with the squatters in the nature of a lease or rental agreement?

A No.

Q You did not?

A No.

Q Name it.

Q Are you aware of the fact that the city did enter into rental agreements?

A Yes.

Q Are you aware of the fact that the occupancy of the squatters is a temporary occupancy?

A I don't understand the question.

Q It is a temporary occupancy?

A Does that refer to the lease or --

Q It refers to any rights they have been given by the city.

A Yes.

Q You are aware of that fact?

A Yes.

Q And that some time when the sites in which the squatters are squatting, so to speak, are ready for development the squatters wlll have to vacate or be removed, is that your understanding?

A Yes.

Q So that you never expected that the people characterized as "squatters" would stay on forever and be your neighbors?

A No.

Q Did you feel it appropriate, in your own mind, for the city to provide essential services to these people

Q I will go on to the controller and the meet-

as long as they were in the buildings?

A Yes.

Q Did you prefer that to putting them out in the street?

(Pause.)

A No, not really.

Q Not really?

A That is to say I took the position at one point after, some time after, the first group of squatters had come in and there were more squatters and the city had not taken a position, I felt, that limited their presence in the building in any way so the construction should go on, that the priority of building should come first and I did take the position at one point that the squatter movement should be stopped and the city should, if need be, forcibly remove squatters from buildings that they subsequently occupied after the city had said it would not recognize any more squatters.

Q In connectionwith the people who lived on the holding sites other than squatters about whom you have testified, whose children you have testified visited in your house, played with your own children --

A Yes.

Q -- did your children do likewise, visit them?

chance. All I ask is that we make progress. I just

A With one family.

Q You were friendly with one particular family.

A Although my children were occasionally in other apartments, but not regularly.

Q The view you spoke of in connection with displacing the squatters and moving them out, you said you expressed that on occasion. To whom did you express that?

A May I refer to notes of meetings I had with respect to CONTINUE?

Q Go ahead.

(Pause.)

A To the best of my recollection at a meeting which was held with Commissioner Hazen on September 22, which was held at Dr. Logan's house --

Q 1970?

A Yes. 1970 -- I did take the position it seemed to me that the squatters would continue to move in and fill up the vacated buildings until such time as the city took some active steps to intervene and that once they had recognized -- I was not proposing that those people who were there in the building at that point be evicted, that is, be thrown out. I was not opposed to starting eviction proceedings at any point against squatters. What I did, at that point I took the position since there had been a

of the problem.

number of other moving in of people in other buildings that it did seem to me the problem would continue until in fact the city insisted that people not move into vacated houses and that this was particularly urgent where some of the houses were the most dilapidated.

There was subsequently such an action in a building on 87th Street. There was an instance in which a group of squatters moved in and were forcibly evicted on 87th Street by the city.

I would have supported that position at that time.

Q You said on the one hand the people that had already moved in you were not anxious to put out in the streets, but you would have supported their eviction, is that correct?

A Through the courts and through slower processes, but I would have supported at that time a more direct intervention. That is, when a family moved itself into a building that was closed up or condemned or whatever, the procedure was by HDA if they moved in that in fact the city remove them from the premises of the building.

Q Here are a number of buildings that are standing. They are boarded up in some way. It does not take too much apparently to maintain heat and hot water and basic services.

pgb-20 Liebert-cross

You are saying that you took the view that rather than do that on a temporary basis, let's get all these people out, is that correct?

A I took the view that if something more direct was not done to prevent a filling up of all the laboriously vacated apartments on holding sites, to prevent the squatter movement from spreading throughout the rest of the area, we would not, in fact, be able to proceed with building on any --

THE COURT: That is what you said before. If you thought that that building ought to go forward, that building program, and that allowing the squatters to continue to occupy the premises would delay the going forward of the building program -- that is what you said?

THE WITNESS: Yes, sir.

Q Mrs. Liebert, did you testify at the City Planning Commission hearing in connection with the designation of Site 4 for public housing? That would have been some time, I guess, in April of 1970.

A That was 1970. Yes.

Q Spring of '70?

A I did not testify.

Q City Planning Commission hearing.

THE COURT: Put your question. Mr. Gold, I

THE COURT: 47 for identification, Mrs.

don't know what you are getting at here. I want to understand what you are asking. Did she testify where?

MR. GOLD: In a City Planning Commission hearing in connection with the designating of a public housing project, Site 4, Urban Renewal.

THE WITNESS: No.

Q Did you testify at the board of estimate hearing in connection with that very same designation?

A No.

Q Were you present at either of those hearings?

A Yes.

Q Both?

A I was present at the board of estimate hearing, I believe.

Q Any particular reason why you did not make a statement to the board of estimate in connection with Site 4?

A Yes. I was there partly for my block association of which I was the chairman, and for CONTINUE, which had just recently formed, that is within a matter of weeks we had the first reconstituted meeting of CONTINUE which, as you know, had a prior life.

We were divided as to what to do about Site 4.

put?

Q The people in CONTINUE?

A And as well the people on the block. It had been presented and discussed at meetings I had attended at Strycker's Bay. There remained a number of large families in the area for whom there didn't seem to be any provision, that the Mitchell-Lamas going up simply didn't have large enough apartments.

On that basis the suggestion to redesignate Site 4 was made. In some way we were opposed to redesignation of any middle income site to a straight public housing site, but there did appear to be some basis for the argument that large families, of which we knew the neighborhood contained a number, families with five or six or seven children, might not be able to be housed in the remaining conventional sites.

Because we could not agree on a position, we did not testify at any meeting in regard to Site 4.

Q Did you have a personal position on Site 4?

A No. I think that I would have felt that if in fact there were families on the site to whom apartments had been committed, but for whom no apartment would exist, that that commitment really had to be met. Whether Site 4 was the place, I don't know. I certainly didn't feel strongly enough to urge opposing it, and I urged not

taking a position at that time.

Q In connection with the hearing before the City Planning Commission on Site 30 designated for public housing, which was in 1971, did you appear at that hearing?

A Yes.

Q Did you testify before the City Planning Commission?

A Yes.

Q Did you testify for or against the proposed new designation?

A Against.

Q Did you appear at the hearing before the board of estimate in connection with the public housing designation, Site 30?

A I believe I did.

Q Did you make a statement before the board of estimate?

A I believe so.

MR. GOLD: Please mark this for identification.

xxx (Defendants' Exhibit T was marked for identification.)

Q Mrs. Liebert, I show you Defendants' Exhibit T and ask you if that is a copy of a statement you submitted to the board of estimate in connection with the hearing on

the Site 30 designation?

A It is.

MR. GOLD: I offer it in evidence.

(Pause.)

MR. MORRIS: Do we have a date on this? What was the date of the hearing?

MR. GOLD: I believe it was October 14, 1971.

THE COURT: Does that jibe with your memory?

THE WITNESS: Yes.

THE COURT: Is that a printed copy gotten from the board of estimate? Why do they issue it without a date?

MR. GOLD: Let me explain.

THE COURT: Go ahead.

MR. GOLD: This is a copy of a statement prepared by Mrs. Liebert, handed to the board, as many speakers hand statements to the board.

THE COURT: It is without a date.

MR. GOLD: It is without a date.

THE COURT: Weren't her remarks recorded there and weren't they made a part of the board of estimate proceedings?

MR. GOLD: Yes.

THE COURT: You didn't get that? You have not

got that?

MR. GOLD: I can have it by next week.

THE COURT: Is there any discrepancy?

MR. GOLD: It is conceivable, your Honor, to be honest, Mrs. Liebert when she read this she may have read it verbatim, may have made additions.

THE COURT: Ask her.

Q Did you read this statement to the board of estimate? I am referring to Defendants' Exhibit T.

A As I best remember, I read it, but I usually run out of time and I may not have read every word.

THE COURT: You read as much as circumstances permitted?

THE WITNESS: Yes.

THE COURT: At any rate, is there anything in that,"T"in evidence, you find is inconsistent in any way? Whether she read it or not.

MR. GOLD: I would like to read something and direct the Court's attention to it.

THE COURT: Go ahead.

xxx (Defendants' Exhibit T was received in evidence.)

Q Mrs. Liebert, I would like to direct your attention to the following language:

"The change of Site 30 to full public housing would make a total of 599 public housing units on one block, exactly the kind of large-scale kind of ghettoized public housing we have fought to avoid in the area. In addition, it should be pointed out that out of 3204 units of housing to be totally constructed, in the third stage 1402 will be for low income housing as currently planned. There is neither the necessity or the justification for increasing this amount."

Does that represent your view at that time?

A Yes, sir.

Q Would it be fair to say based on what you stated in that document that you woul dnot have minded public housing going into Stage 1 in the northern end of the area, but you were real upset about the fact that a lot of public housing was on one block? Would that be a fair statement?

A I don't think that fairly weighs my sentiment.

I would certainly have preferred not to have had any additional public housing. In balancing the needs of family to whom I felt housing was committed as against maintaining integrated housing, middle income housing and subsidized units, which I felt was a better way of dealing with the additional units, I would have weighed at that

second stage the site and I felt that a site not large, not next to any large concentrations or next to a large public housing site would be a better site.

If you are asking me which one would I rather have, of two public housing sites, if I felt I had to have one, I would have chosen Site 4.

Q ARe you familiar, Mrs. Liebert, with the position on Site 4 andSite 30 that has been taken by the Community Planning Board Number 7?

A Not by that description.

Are you referring to the position of moving the funding from Site 30 to --

Q No. The position of designating Site 30 and Site 4 as public housing sites. Are you familiar with Planning Board's position?

A Yes.

Q What is that position?

A I believe they supported the redesignation of both sites to public housing.

Q By the way, what is the address of the new building that you claim you are moving to?

A 135 central Park West.

Q Where is that?

A 73rd and Central Park West.

Q Obviously you consider that an area that is desirable to live in, is that correct?

A Yes.

Q Some building going on there?

A No, not on Central Park West.

Q Are you familiar with the area between let's say 65th Street and 79th Street?

A Somewhat.

Q Would you say that that is a desirable area in which to live?

A Well, yes, as a whole.

Q In other words, the West Side of Manhattan is a place that you feel is a good place to bring up your children and for you and your husband to be?

A I would not designate that I feel or say that all areas of the West Side are areas in which I wish to live and raise my children at the moment.

THE COURT: Anything else, Mr. Gold?

MR. GOLD: Yes, yes.

THE COURT: Put it then, please.

Q I think you testified that you were involved in 1972 in a conference that was sponsored and held and prepared by Strycker's Bay Neighborhood Counsel, is that correct?

A Yes.

Q Did you at that time work on what was called a Task Force on Economic Tools in Housing?

A Yes.

Q Did you work with a Bernice Gross, Walter Hess, Martin McCarthy?

A On the large committee, but the large committee broke down into smaller groups that did particular tasks.

There was a great deal of printed material prepared for that committee and I only worked essentially, other than certain large meetings, we had to plan the overall design of the material.

I primarily worked on compiling the figures about the allocation of units built to date.

Q Was that in the material that was prepared for the Task Force, Economic Tools in Housing?

A A part of that kit.

Q Did you read the material?

A Yes.

Q Are you familiar with it?

A I am more familiar with the part I worked on but I did read it all.

Q Which part did you work on?

A This part (indicating).

Q Name it.

A The part I worked on is not the economic factor, but this part which just had to do with the specific figures.

I did not draft in any way any of the other material.

Q You were, I guess, the numbers technician?

A Sort of.

Q You say you did not draft the material. Did you at any time authorize the use of your name on that material?

A On the Task Force Committee?

Q Yes.

A Not particularly. I didn't say, "Yes, put it on there." I presented however at the conferences the material that I had worked on.

End 2

Q I will go on to the controller and the meeting and those figures that you testified about, particularly the meeting.

I think you said that in the spring of '73 was the first time that you made contact with the controller's office, is that correct?

A No, that's not correct.

Q When was it, then?

A I am not -- yes, I am sorry, that is correct. We had --

THE COURT: That's correct. I allowed you to expand very often in order to avoid no end of questions. The time has come when you must stop giving a long, expansive answer to something that can be answered with a yes or no. Let him ask the next question. If he doesn't ask it, that's it.

MR. MORRIS: Your Honor, are we adjourning at 3:30 today?

THE COURT: I said so yesterday.

(Counsel confer)

MR. MORRIS: I want to know whether to let the next witness on.

THE COURT: I don't blame you. It is pretty hard to know what to do. They have to be given their

chance. All I ask is that we make progress. I just don't want time to elapse without anything of value coming to me. I am the one who has to decide this. Everyone seems to be concerned with what they can get into the record. What about asking: What is the Judge going to think of all this?

What am I going to think of this witness who gave very valuable testimony here that may have a great bearing on the outcome of the case? Am I going to say that she is so voluble, so anxious that she is almost an advocate and that her objectiveness has been destroyed, or am I going to say, upon a closer analysis, I think et cetera.

I have to make up my mind. You have got to help me do that. If you want to attack her, show that she is not objective but extremely adversary, go ahead. Most of these things, I must say with all candor, have not influenced me one bit. Whether she brings her children up on the west side when we have been talking about a certain area for pretty near an hour seems to me to be idle. New York, especially Manhattan, being as saturated as it is, one block offers every advantage and the next block is utter despair. So for heaven's sake, let's get some questions here that really get into the teeth

of the problem.

What do you want to do with your time? I am going to step off for a couple of minutes. Make up your minds. I don't want you to have witnesses hang around here. I know how it was when I practiced. Ask counsel how long they are going to take. They are entitled to their chance. I may disagree with what they are doing, but they have to be given a chance to come across with what they think they ought to be doing. So I will give you a minute or two.

(Recess)

THE COURT: Let's go forward.

BY MR. GOLD:

Q Mrs. Liebert, with respect to the meeting in the controller's office in the spring of 1973, who was present at that meeting?

A Mr. Crystal and myself.

Q You and Mr. Crystal?

A There was another man at an adjacent desk, but I don't know his name.

Q Is that a Mr. Warren?

THE COURT: You know we are not concerned with him. Was he a part --

THE WITNESS: No.

THE COURT: Then why do you offer it? In every office there are a lot of people doing work. What are they supposed to do, clear out because you came in there? You had a conference only with Crystal, right?

THE WITNESS: Yes.

Q You went directly to Mr. Crystal, is that correct?

A Yes.

Q And did you ask Mr. Crystal for the number of people receiving public assistance in the West Side Urban Renewal area?

A No. I had this --

THE COURT: No. Next question.

Q What was the nature of your conversation with Mr. Crystal?

A I asked him to explain on a site by site basis the basis for these figures which he had given to Mr. Carroll, First Deputy Controller, and Mr. Carroll had given to me.

THE COURT: Let's mark that paper because you referred to it on your direct examination.

Mr. Clerk, mark it for identification.

(Plaintiffs' Exhibit 47 was marked for identification)

xxxx

THE COURT: 47 for identification, Mrs. Liebert, how long before your talk with Mr. Crystal did that come into your possession? I am not asking you for the split moment. What day, about how long?

THE WITNESS: About three weeks

THE COURT: And you got that exhibit number 47 for identification from Mr. Carroll?

THE WITNESS: Yes.

THE COURT: You told us on direct examination of your conversation with Mr. Carroll, did you not?

THE WITNESS: Yes.

THE COURT: How did it happen that Carroll gave you a part of his file, which is 47 for identification? How did that come about?

THE WITNESS: It came about because at the hearing the funding of Strycker's Bay he had asked us why we had not given him more information about the area. Another board member of CONTINUE had a series of conversations with him after that in which she presented a series of questions I gave her to ask him about finding out what the actual figures were in the different buildings.

THE COURT: So that Mr. Carroll gave you 47 for identification as an answer to the questions that you

put?

THE WITNESS: Yes.

THE COURT: Is that what you mean?

THE WITNESS: Yes.

THE COURT: So he wanted you to have it and they were not a part of his file, they were an answer, a solicitous answer, to your questions, is that right?

THE WITNESS: Yes.

THE COURT: And then three weeks later you went back to his office and this time --

THE WITNESS: I did not go back to his office. I was in school then and I wrote out a list of questions I had about the figures. Mrs. Gratz, whose name is on here, who had spoken to him with my previous questions, relayed the questions to Mr. Carroll. They were complicated to understand on the phone and he suggested that I call Mr. Crystal directly and make an appointment to discuss this memorandum.

THE COURT: Which you did?

THE WITNESS : Which I did.

THE COURT: And you went down to see Mr. Crystal with 47 for identification in your possession?

THE WITNESS: Yes.

THE COURT And when you got there you pulled

that out, from wherever it was on your person, this 47 for identification, and you began to discuss that, right?

THE WITNESS: Yes.

THE COURT: All right. Now we have got it. Go ahead.

BY MR. GOLD:

Q Was Mr. Crystal familiar with 47 for identification?

A Yes.

Q Were those numbers -- may I see that, please?

A Yes.

(Handing)

Q When 47 for identification came into your possession, Mrs. Liebert, was it only typewritten material or was there also written material?

A This was it.

Q Including the question marks?

A No. The pencilled-in things are my notes to myself about questions.

Q I see.

A About the figures.

Q So that when you got from Mr. Carroll this material, it was only the typewritten material?

A Yes.

Q And did you make up or formulate the list which you testified to earlier project by project from that material?

A No. This material --

THE COURT: Are you talking about an exhibit?

MR. GOLD: I am sorry.

THE COURT: Give the number of the exhibit. Did you not mean 46 in evidence?

MR. GOLD: Yes.

THE COURT: You know full well she testified she made these notes as Crystal talked to her.

Q Was that at the same meeting that you made those notes that you just mentioned?

A Yes.

THE COURT: Is it not so you wrote that down as he talked to you?

THE WITNESS: Yes.

Q Mr. Crystal read these off from some material that he had?

A Yes.

Q And did he tell you at that time the source of his material?

A No.

Q Did you inquire?

A No.

Q Did you have any further meetings with Mr. Crystal?

A No.

Q Did you ever have any meetings with the then Controller Beame in connection with this particular problem?

A No.

Q Did you have any further meetings with Mr. Carroll?

A No.

Q Did you ever have any meetings with a Mr. Warren in the controller's office in connection with this?

A No.

Q Is that the only material that the controller's office, either through Mr. Carroll or Mr. Crystal, supplied you with, that would be 46 for identification?

A No.

Q They supply you with other numbers?

A Other material.

Q Other material. What was that material?

A My Crystal xeroxed some sheets of material that

he was using.

Q Was this done at the same time that you met with him that one time?

A Yes.

Q And this was the spring of '73?

A No, it was just before Christmas, 1973.

Q Just before Christmas, 1973?

A Yes.

Q I am sure I heard you say you met with Mr. Crystal earlier in 1973?

A No.

Q Okay. Late December, 1973, is when all of this happened, you made the notes on 46 in evidence?

A Yes.

Q And you discussed 47 for identification with Mr. Crystal?

A Yes.

MR. GOLD: That is all.

MR. DOUW: I have a few questions, your Honor.

CROSS EXAMINATION

XXXX BY MR. DOUW:

Q Mrs. Liebert, I believe you mentioned that you had been associated with the organization CONTINUE since

about 1970, is that correct?

A Yes.

Q Were you at the organizational meeting of CONTINUE that occurred about April or May of 1970?

A Yes.

Q You attended that meeting?

A Yes.

Q Did CONTINUE exist before 1970, to your knowledge?

A Yes.

Q And what were the circumstances -- well, let me ask you this: Were you associated with CONTINUE prior to this organizational meeting in 1970?

A No.

Q Do you know anything about the CONTINUE organization prior to 1970?

A No.

Q Do you know how it came that the organization which you participated in the founding of in 1970 came to adopt the same name as the one that existed earlier?

A Yes. Some of the same people who had been in the previous organization were involved in the later organization.

Q Can you name who those people are?

A Yes. Mr. and Mrs. Pryor are the people I remember who were particularly active in the former organization and who reminded us of the existence of the organization and the name.

Q Mr. and Mrs. Pryor, are those the only two individuals or are there more? Please name them if you can.

A I can't name other people I know were associated with the previous organization.

Q Now, since that meeting in 1970, could you explain for the Court your association with CONTINUE, the nature of your association with CONTINUE up to the present time?

A I was one of the founders of the reorganized CONTINUE. I have been a board member. I have functioned actively in the organization. I have represented the organization at a number of meetings with city officials and at hearings, as I testified before.

Q Since what time have you been a board member?

A Since the first meeting.

Q And you are today?

A I am today.

Q How large is your present board?

A I believe it to be around twenty, but in fact,

although I remain on the board, I have been very inactive this year and such energy as I have devoted has been to this case.

Q Do you know who or can you name the most active members of the board let's say over the past year?

A Well, I would say that -- over the last year, no.

Q At the time that you were active -- I gather previous to this last year you considered yourself active -- during the time that you were active who were the most active members, in your opinion?

A I would say that Dr. Fine, myself, Mrs. Gratz, Dr. Logan. The Pryors were very active for a while but they moved out of the area.

Q I would like to ask you about your block association. I believe you are president of the block association.

A I have not been for two years.

Q Are you a member of the block association?

A Yes.

Q Are you active in it?

A No more.

Q You were president at one time of the block

association?

A Yes.

Q During what period of time were you president of your block association?

A From 1969 to 1972.

Q And how many members did you have at that time on the average?

THE COURT: Mr. Douw, I don't know what this really means but you unduly have something in mind.

If you can wind this up in a few minutes I am willing to do it. Otherwise we will go over.

MR. DOUW: I think it can be in a few minutes. I will try.

THE COURT: Go ahead.

Q There is a question pending.

A We probably had 20 active families on the block but from time to time anybody was welcome to come to meetings which were only held once or twice a year. Small committees dealt with specific problems.

Q Were the members of your block association predominently brownstone owners or --

A Yes.

Q All brownstone owners?

A No.

THE COURT: But primarily so?

THE WITNESS: Yes.

THE COURT: Next question.

Q I believe you testified that the brownstone that you purchased in 1964 had 13 units and that it was what would be described as single room occupanies, is that correct?

A Yes.

Q Were there 13 tenants in it?

A Yes.

Q Were they families or single persons?

A Both.

Q How many families, if you can recall?

A I am trying to. Seven.

Q And six single persons, is that correct?

A Yes.

THE COURT: I am afraid we will have to go over.

MR. DOUW: I am sorry, your Honor.

THE COURT: The witness I already said, and I wish the record to reflect it, has given some very vital testimony. I regard her testimony as more extensive, more plainly put than all the testimony of witnesses up to the calling of the present witness. There may be

further questions that occur to you and haste makes waste. You should have your opportunity, Mr. Morris, to take her over, if necessary, on redirect and the Judge should have an opportunity to think it through and ask questions of a witness that he regards as one who has given valuable testimony, the weight of which has to be determined by me at the right time in light of the entire trial record.

But it is quite apparent that she is an important witness. You will have to come back. That will be Noone, May 6th. Mr. Morris will tell you all the particulars.

What were you going to say?

THE WITNESS: I was going to ask if it would be possible for me to come back somewhat later on that day?

THE COURT: Why?

THE WITNESS: I wish not to avoid my classes in the morning.

THE COURT: Good enough excuse. What time?

THE WITNESS: 1:00 o'clock.

THE COURT: Come back at 2:00. That will be all right with me.

MR. MORRIS: Are we having a luncheon recess

from 1:00 to 2:00 on Monday?

THE COURT: I can cut myself down to a sandwich. If you agree on it, you tell me, all we will need is fifteen minutes, that will be okay with me. I don't like to suggest it. I don't like to do these things. You have a life of your own. You have problems, all of you. I recognize that. So whatever you wish on that score is agreeable with me. I have already told you, then, that we carry on at noon promptly. I gave you the room number. Next Monday, May 6th. I told you we go right through except the time I have to take out to pay my respects by attending memorial services to Justice Botein. Except for that I am available and we will sit until about 7:15, 7:30 and get as much time as we possibly can on Monday. That is the best I can do. The order of your witnesses I will leave to you. How much time you want for luncheon on that day I will leave to you also.

Announce an adjournment.

(Adjournment to 12:00 o'clcok noon, May 6th, 1974.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Lisa Kolb Liebert	1846	1893		

EXHIBIT INDEX

	Identification	In Evidence
Defendants		
F		1844
Plaintiffs		
45	1845	
46		1892
47	1976	

Trinity Episcopal School Corp.
et al
and
Rolan N. Karlan, et al.
against
George Romney, et al.

71 Civ. 4315

New York, New York.
May 6, 1974 - 12:10 A.M.

(Trial resumed.)

THE COURT: Gentlemen, will you please have the record show that we are a little late this morning because I understand a withess has not come.

Is that it, Mr. Morris?

MR. MORRIS: That is correct, your Honor.

THE COURT: Yes, while we are waiting for the witness, will you please tell me whether you have some notion or, rather, are you ready to spead on the record your reactions to my request for a time schedule or, rather, about how much more time do you estimate in addition to today this trial will take?

MR. MORRIS: The witness just arrived, your Honor.

THE COURT: All right. We will take that up later, but I would like to take the testimony first. Call the witness.

MR. LAND: There is one matter I would like to

bring to your attention this morning.

During the course of Mr. Lumbard's testimony he mentioned certain conversations that he had with the now Judge Tenney at a Trinity Episcopal School board of directors meeting. I talked to Judge Tenney as to his recollection of those events. The Judge is available to give testimony. Unfortunately, the Judge is going on vacation tomorrow and will be on vacation until the end of this month. As a result of that I thought it might be helpful to have him testify now when he is available. The Judge informed me that he will be available in court this afternoon at two o'clock to give testimony for approximately five or ten minutes if that meets with your satisfaction.

THE COURT: In other words, you want to call the Judge?

MR. LAND: Yes, as a witness for the Government, out of turn, so to speak.

THE COURT: Of course. Then I think you ought to make it your business to inform him that we would be glad to accommodate him . He said at two o'clock?

MR. LAND: Yes. He said he will be here at two o'clock.

THE COURT: Then that is fine. We will take his testimony at two o'clock.

MR. LAND: Thank you very much.

MR. MC LOUGHLIN: If your Honor please, were we breaking at 1:00 today, your Honor?

THE COURT: Yes, at 1:00. Then I asked you gentlemen to let me know how much time you want to have for luncheon. I don't know whether you have any notion on it or not. What pleases you?

MR. MC LOUGHLIN: With me, your Honor, I wonder if we could have the witness go until ten to 1:00 and then have a conference in the robing room.

MR. MORRIS: I would like to have between 1:00 and 2:00.

THE COURT: And your conference won't take more than ten minutes?

MR. MC LOUGHLIN: I am sure it won't.

MR. LAND: One problem is Judge Tenney has ~~told~~ me he ~~is~~ extremely busy and if we set the time to return from lunch at two o'clock and if there is a delay there --

THE COURT: There must not be any delay. What do you mean if there is a delay? There must not be. I don't see how grownup people should have a problem on that score.

Stand up to be sworn.

J A Y I. O L N E K called as a witness by the plaintiffs, having been first duly sworn, was examined and testified as follows:

THE COURT: Keep your voice up, Mr. Olnek, please, and just answer the question put to you. Do not volunteer any testimony.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Olnek, what is your occupation?

A I am an attorney and a partner in Hampton Management Company, a real estate management firm.

Q And is Hampton Management Company in any way connected with Starrett Bros. & Eken or Starrett Housing Corporation?

A We manage a number of Starrett Housing Corporation buildings.

Q Was Starrett Bros. & Eken a sponsor of Leader House?

A They were the builder of Leader House.

Q The builder, I mean, yes.

And is there any corporate interconnection between Hampton Management and Starrett in any way?

A A partner in Hampton Management Company is chairman of Starrett.

Q Now, are you familiar with the -- do you have anything to do with the management of Leader House?

A Yes.

Q Do you have anything to do with the management of any other properties in the West Side Urban Renewal area?

A Tower West at 65 West 96th Street and The New Amsterdam Building at 733 Amsterdam Avenue.

Q Is that called New Amsterdam House?

A It is erroneously also known by that name, yes.

Q What is the correct name?

A The New Amsterdam.

Q The New Amsterdam?

A Yes.

Q Now, how long have you been connected with this management company?

A Since 1963.

Q And have you had occasion to manage other properties than the three that you just mentioned through this management company?

A We manage about 10,000 units in New York, New Jersey, Massachusetts and Connecticut.

Q And what type of units are those?

A Residential, primarily.

Q Residential properties?

A Yes.

Q And are some of them, other than the three you named, located in New York City?

A Well, there are other buildings located in New York, yes. We have most of our buildings in New York City.

Q Most of the 10,000 units that you described are located in New York City?

A New York City, yes.

Q Would you describe for the Court the nature of these properties which you manage? The New York City ones I am speaking of.

A There are some luxury, some middle income, some 236, Mitchell-Lamas, State Mitchel-Lamas, City Mitchell-Lamas, also Urban Renewal buildings in Coney Island. Do you want the makeup of the buildings?

Q No. Are these mostly high-rise residential buildings?

A They are mostly high-rise residential buildings, generally containing several hundred apartments in each building.

Q Several hundred apartments in each building?

A Yes.

Q Are they mostly buildings which have been

recently constructed or are some of them old buildings?

A The oldest building was built in 1950. Everything else is completed since 1963.

Q So that they are mostly new buildings?

A Yes.

Q Where is your office located?

A 2500 Johnson Avenue.

Q In Riverdale?

A Yes.

Q In Manhattan?

A No, Bronx.

Q Would you tell us what you have to do with the management of Leader House?

A We originally rented Leader House.

Q In other words, it was rented under your firm?

A Yes. We managed the maintenance and operation of Leader House.

Q Ever since it was rented?

A Ever since it was built.

Q Do you continue to manage and operate the property at the present time?

A Yes.

Q When did you take over the management of the other two properties you mentioned?

THE COURT: When you say "you" --

Q Your company.

A From the inception of renting. In other words, when the building was first built we rented both Tower West and New Amsterdam.

Q When did the renting begin on Leader House?

A It was rented in 1972.

Q Did you participate in the arrangements which were made in connection with the renting of that property?

A Yes, sir.

Q Would you tell us how?

A We had numerous meetings down at the office of Commissioner Coniglione.

Q Who is that?

A He is the deputy Commissioner of Management and Relocation Services of the Housing and Development Administration.

Q Is he in charge of su rvising the operation of the Mitchell-Lama projects in the West Wide UrbanRenewal Area?

A Entire New York City.

Q In the entire city?

A Yes.

Q And certainly in the West Side Urban Renewal area?

A Yes.

Q Tell us what occurred with respect to the meeting with Commissioner Coniglione.

A There was a series of meetings held with the Strycker's Bay Neighborhood Council and the Commissioner in connection with how the building was to be rented.

Q Would you tell us about when those meetings occurred?

A Actually, the first meetings started with respect to the New Amsterdam.

Q When did that occur?

A The New Amsterdam -- perhaps about the end of 1970.

Q What other meetings occurred?

A We also met with respect to Tower West.

Q Where is that?

A 65 West 95th Street, 95th and Columbus.

Q Did you have any other meetings?

A With respect to Leader House.

Q Tell us when that occurred.

A The Leader House meetings took place towards the end of 1971 through about July, August, '72.

Q Would you tell us what occurred at the first meetings with respect to New Amsterdam Houses?

A Well, the question came up as to getting priority to relocatees.

Q What occurred with respect to that?

A Well, they held up the renting of the apartments until all relocatees had been contacted.

Q What was done then?

A No relocatees could meet the rents of New Amsterdam House so eventually they allowed us to start

renting the --

MR. GOLD: Your Honor, if we are talking about meetings and conversations, the witness is testifying as to, I assume, conclusions he derived from those meetings rather than what someone said or someone else might have said. In addition, I know that Commissioner Coniglione was apparently at the meeting, some people with Strycker's Bay too, and Mr. Olnek, but I don't know if anybody else was there.

Q Go back to your first meeting and identify for the Court approximately the time of that meeting, who was present at the meeting, and what was said to the best of your recollection in substance by the people who attended the meeting?

A Well, persons present was Commissioner Coniglione, Sandy Thomas.

Q Sandra Thomas?

A Yes. From Strycker's Bay.

On occasion Father Farrelly.

Q F-a-r-r-e-l-l-y?

A Yes. I think a Beatrice Rosenbloom from Strycker's Bay was there too, and a few other people from Strycker's Bay whom I don't know by name. I saw one lady here in court the other day though who was at the meeting.

Q Approximately when did that meeting occur?

A These meetings took place --

Q I am only asking about the first one now.

A Actually I am giving just a guess.

Q To the best of your recollection.

A Say early '71.

Q What was said at that meeting with respect to the subject matter of the meeting?

A The issue was raised as to the placement of relocatees in buildings and that the Strycker's Bay Neighborhood Council wanted to be certain that all relocatees were placed before anyone else was rented apartments.

Q Was that said by the Strycker's Bay people?

A Yes, and concurred with by the Commissioner.

Q It was concurred in by the HDA Administrator?

A Yes.

Q Tell us what else was said at that first meeting.

A We went over procedures, writing to the relocatees, or the local relocation office making mailings out to the relocatees.

Q Now you are telling me what happened subsequent?

A This is what they were talking about, to be certain that all relocatees were contacted before anyone else was rented to.

Q Was there a discussion of the procedures to be followed in order to accomplish that?

A Yes.

Q Tell us what was said.

A One, we could not submit applications until the relocatees were finished.

Then, applications thereafter were supposed to be sent to the local office in the 96th Street area who in turn would send the applications down to the Housing and Development Administration.

Q What else was said.

A There was a lot of conversation. I don't recall.

Q In effect was that all that was said of substance?

A Basically that was the only issue. The meetings were concerned with the placement of relocatees first.

Q What occurred after that?

A Well, we started looking for relocatees.

Q What did you do?

A We had various applications from many thousands of people but I could perhaps finish Tower West and New Amsterm quickly inasmuch as the rents for those two developments were so high, although they were middle income

rents --

Q Tell us what you mean by "so high."

A I have here -- The New Amsterdam rents started the -- the studios were almost $200 and perhaps up to 210. Studios went from 190 to 221.

Q Describe what a studio apartment is.

A No bedrooms. It would be an efficiency apartment. This is for The New Amsterdam.

Then one bedrooms ranged from 254, approximately this line I am looking at here, to 275 on one bedrooms. The two bedrooms here is a line running from 300 to 325.

Q Are those the full Mitchell-Lama rents applicable to that building?

A Yes. They had some three bedrooms -- most of these were given to public housing but they went from 390 to 418.

Q Were a certain percentage of --

MR. LAND: "Mostly given to public housing," your Honor, could we have that stricken.

THE COURT: Strike it.

Q Tell us what allocation was made of the apartments in the building.

A With respect to The New Amsterdam --

MR. LAND: Excuse me. The witness is reading

from a piece of paper to give his testimony. Perhaps the piece of paper is the best evidence.

Q Don't read. Tell us what your recollection is.

THE COURT: You must tell it to the witness, Mr. Morris, so the opposition will know that is what you have in mind, otherwise they have a perfect right to object to it.

Will you please tell us whether the paper you are looking at refreshes your recollection?

THE WITNESS: The paper I am looking at --

THE COURT: Can you answer that yes or no, Mr. Olek?

THE WITNESS: Well --

THE COURT: Does it refresh your recollection or doesn't it?

THE WITNESS: It refreshes my recollection, yes.

Q Would you tell us what the paper is that you are looking at?

A This paper here is a summary of the rent schedule for the building here.

Q Which building?

A New Amsterdam.

Q That is a summary of the schedule of the rents

you just read before?

A No. It is a schedule of the makup of the apartments.

Q The breakdown of which units were allocated to which?

A Well, the rent schedule itself indicates which units are allocated to public housing and the schedule I am -- the summary I am referring to is a summary of how many one bedrooms, two bedrooms and studios there were.

THE COURT: Do you object to offering that in evidence?

MR. MORRIS: I see no purpose.

THE COURT: How does he remember the details?

MR. MORRIS: I respectfully submit that the testimony with respect to New Amsterdam Houses and Tower West are not the ones to which he is going to testify in detail. Leader House is the important one. When I come to that I will introduce documents in evidence, but I see no reason for cluttering up the record at this time with respect to the testimony as to the Amersterdam Houses and Tower West.

THE COURT: The only trouble is you are asking questions on that.

MR. MORRIS: I am trying to elicit what the

facts are with respect to that building and each time I try to elicit something counsel gets up and objects. Therefore I have to go into detail. I prefer not to and that is why I am asking the questions I am.

THE COURT: Either the questions are not being understood by the witness and he is getting down to specifics as gainst your objective which is merely to get some general information -- I think you better start anew on that.

Q Tell us, Mr. Olek, what percentage of low income families were allocated to the apartments in Amsterdam Houses?

A Originally 30 per cent, but a change was made.

Q Tell us what the change was.

A Originally they had 30 per cent of the studios, 30 per cent of the one bedrooms, 30 per cent of the two bedrooms and 30 per cent of the three bedrooms.

I traded the studios and one bedrooms, I asked for that from Strycker's Bay, and gave them two's and three's, mostly three's I think it was. In other words, though the number of rental rooms taken by public housing in New Amsterdam remained at 30 per cent -- in other words, they would give me a studio and one bedroom, a studio was the equivalent of two and a half rooms and a one bedroom about four rooms, and I would give them a three bedroom

in exchange.

Q Were the balance of the apartments, the 70 per cent, rented at Mitchell-Lama rents?

A Yes, with the aid of 236 on the public housing to avoid the skewing of rentals in the Mitchell-Lama building.

Q Was Section 23 leasing used in addition to the 236?

A It was a combination of 23 with 236 on the same apartments.

Q They used the two together?

A Right.

Q What was the situation with respect to Tower West?

A Tower West also had public housing set aside approximately 30 per cent. They took perhaps a little more on the two and three and a little less on the one.

MR. DOUW: Excuse me. Who is "they"?

THE WITNESS: Strycker's Bay in conjunction with public housing.

Q And the city?

A And the city in conjunction --

Q The HDA?

A It was all approved by the Housing Development

Administration, yes.

Q In other words, it was the Strycker's Bay, The Housing Authority, and the HDA that were involved, correct?

A Strycker's Bay -- incidentally, the Housing Authority was also present at that meeting. I forgot to mention that.

Q At the earlier meeting?

A Generally they were at all the meetings.

Q Was the remainder of the 70 per cent of the tenants in Tower West occupied by full Mitchell-Lama rent-paying tenants?

A Yes.

Q You have managed those buildings since the time they were rented, is that correct?

A Yes.

Q Have you had any difficulty with the management of those buildings?

A You have difficulty with the management of all buildings.

Q In what sense.

A In The New Amsterdam specifically there is a very active tenants committee. In fact the chairman of that went on from chairman of the tenants committee in New Amsterdam to become chairman of the middle income

buildings in the city, or something like that. It is an active political group you are dealing with and --

MR. DOUW: Objection, your Honor.

THE COURT: That is for you on cross-examination. I should think you want to leave that alone, to hammer at it. If you want it out I will strike it out. It is not responsive.

Do you want it in or out?

MR. DOUW: I move to strike the characterization.

THE COURT: That is stricken. Disregard it.

Next question.

Q Did you have anything to do with the management of Leader House?

A Yes.

Q Tell us when you had your first meeting with respect to Leader House.

A With respect to Leader House, that would be around the end of December of 1971.

Q Would you tell us where that meeting occurred?

A At the Housing Development Administration offices on 100 Gold Street.

Q Who was present?

A The people I indicated in my previous statement, the same people as at the New Amsterdam meetings.

Q Including members of the Housing Authority?

A Housing Authority, Strycker's Bay, the Commissioner, myself.

Q And people from your staff?

A Generally a renting agent -- yes.

Q Tell us what occurred at that meeting at the end of December 1971 with respect to Leader House.

A Actually, there, again, came the question of priorities with respect to Leader House. However the difference between Leader House and Tower West and New Amsterdam was a difference in rentals. Leader House was all 236, so the rentals were much lower.

Q Give the Court an idea as to what the rentals were as applied to Leader House.

A At the rate of $38 a room.

Q A room, a month?

A Per month, yes.

Q That compares with what rate for New Amsterdam and Tower West.

A New Amsterdam andTower West were approximately $80 a room.

Q A room, a month?

A $70 a room.

Q A room per month?

A Yes.

Q Proceed and tell us what else occurred at that first meeting with respect to the renting of Leader House.

A Well, there was discussion as to priorities and who came first. Also there was discussion with respect to the allotment of public housing apartments.

Q Would you tellus what the discussion was and what was said, to the best of your recollection?

A With respect to public housing apartments, Strycker's Bay wanted to get the bigger apartments at Leader House. In other words, they took 30 per cent of the number of apartments and they requested 30 per cent of the number of apartments but they wanted the big apartments, not the small apartments.

Q And when you say wanted the big apartments, would you describe to the Court what that means in terms of apartments?

A Well, in terms of apartments, they wanted the three bedrooms and the two bedrooms and they weren't interested in particularly the one bedrooms, but they did get a few one bedroom apartments.

Q How about no bedrooms?

A No, they didn't take any studio apartments.

Q So that they took only the larger apartments, is that correct?

A They took, in effect, 30 per cent of the number of apartments, but I figured this out once, they took 41 per cent of the number of rental rooms.

Q So that the number of rental rooms allocated -- when you say they took, you mean those were allocated to low income occupancy?

A It was allocated to public housing.

Q To public housing. Now, did you testify that the entire building was given Federal Section 236 subsidy?

A Yes.

Q But of that 236 subsidy, was 30 per cent selected for low income or public housing?

A Thirty per cent of the apartments, 41 per cent

of the rental rooms.

Q 41 per cent of the rooms?

A Yes.

Q And how does that equate with respect to the number of people living in the building? Would you say that is approximately 41 --

THE COURT: Don't suggest.

A I made an estimate of that and I made an estimate that 44 per cent of the number of people were in the public housing apartments based on an average number of people per size apartment.

Q Now would you tell us --

THE COURT: I don't understand that answer. You may be correct but I don't understand what that means.

Would you please ask questions that will elicit that clearly?

Q Will you please explain to the Court exactly what you mean by what you just said?

A I figured in a studio or one bedroom apartment you would have on an average one and a half people. You could have one person or you could have the maximum two people. So I average it one and a half.

On a two bedroom apartment --

THE COURT: Consisting of how many rooms?

THE WITNESS: Two bedrooms.

THE COURT: How many rooms altogether?

THE WITNESS: Two bedrooms, a living-room, a kitchen and perhaps a small dining area.

In a two bedroom apartment, the maximum you would be allowed would be four, the minimum generally would be three, so I averaged that at three and a half.

A three bedroom, the maximum would be six and -- well --

Q What about the two bedroom?

A The two bedroom I figured at three and a half.

Q Three and a half?

A Three and a half people.

Q And three bedroom, how many people did you figure?

A The three bedroom I figured, I believe, five.

Q And are there any four bedroom apartments?

A No.

Q Using that room count and person count that you just described, your testimony was that you said there were 44 per cent of the people in the bu8lding allocated to the low income units, is that correct?

A That's right, based on that estimate.

Q Based on that estimate?

A Yes.

Q Would you tell us what occurred with respect to the 70 per cent, the remaining 70 per cent, of the tenants in the building?

A The remaining 70 per cent of the tenant s of the building were rented after -- all relocatees were contacted. First we had to contact all relocatees and the apartments were set aside -- they had first priority.

Q Who had first priority?

A The relocatees.

Q Yes?

A And we could not submit any application for -- we were told to hold up all applications of anybody else but the relocatees.

Q Did you do that?

A Yes.

Q And would you tell us what occurred?

A Well, we had a -- we took the relocatees and when we ended up we had, I think, 56, finally, welfare relocatees who were part of the 70 per cent of the building.

Q Would you explain to the Court how that came about? Tell us what events occurred to bring about that situation that you just described?

A Well, any person who was a relocatee had priority,

and in that group of relocatees were a number of welfare persons, so that those persons got apartments.

Q Would you explain to the Court how those welfare relocatees were eligible or able to get apartments in the 70 per cent which was not for low income families?

A The Social Services will pay the 236 rent.

Q In other words, at that time the arrangement was that if a welfare tenant's rent waspaid by Social Services, they were eligible to rent the 70 per cent middle income apartments in the building, is that correct?

A Yes.

Q And did that actually occur?

A Yes.

Q Would you tell us how many welfare families in that category were rented in the building in addition to the 30 per cent low income families?

A 56 welfare in addition to any welfare and public housing, 56 in the 70 per cent of the building.

Q How many familes in the building in its entirety?

A 280, including the superintendent.

Q So that there were 56 families in the 70 per cent middle income category, is that right?

A Yes, in the 236 category.

Q In the 236 that were welfare?

A Right.

Q And in addition to that were there the 30 per cent of low income families under Section 23?

A Yes, in addition to that, right.

Q In addition?

A Right.

Q Would you tell the Court approximately what percentage of the total occupancy of the building, therefore, was for low income families, including the welfare and the 30 per cent low income?

MR. LAND: Your Honor, if the man has made a study, he doesn't have to deal with approximations, he would have it on the button, according to his testimony so far, rather than approximations.

THE WITNESS: I don't have --

THE COURT: There has been an objection. What do you say, Mr. Morris?

Q Will you tellus what the figure is?

THE COURT: Has he got any figures specifically laid out with regard to this situation?

Q Do you have any figures?

A I have here --

THE COURT: Do you happen to have, sir, an outline representing the details of the answers you have been

giving with regard to the proportion of tenants in that Leader Building? That is all. If you don't happen to have it, that's it.

THE WITNESS: I happen to have an outline here.

THE COURT: That paper is still in your possession?

THE WITNESS: Right.

THE COURT: What does that paper disclose? What is it addressed to?

THE WITNESS: This shows the breakdown of the building in terms of size of apartments, it shows the number of apartments and sizes occupied by public housing, it shows the number and sizes of apartments that were under the 236 program which includes 49 welfare tenants still presently in the building, and it shows one apartment in the building was rented at fair market or middle income.

THE COURT: I suppose you plan to put that in evidence.

MR. MORRIS: I do, your Honor. As a matter of fact, I would like to offer it now.

THE WITNESS: It also shows a breakdown by race.

THE COURT: All right.

Q Did you prepare that schedule that you have just testified to?

A I prepared all this and I got this --

THE COURT: Mr. Olnek,did you prepare it, yes or no

THE WITNESS: Everything except the report on race.

THE COURT: And with regard to that, people were given an assignment by you?

THE WITNESS: Yes.

THE COURT: And they gave you data that they had collected on which they predicated their results?

THE WITNESS: Yes.

THE COURT: So that figure in that schedule, or whatever it is,meets with your approval and you say that it is accurate?

THE WITNESS: Yes.

THE COURT: To the best of your knowledge and belief?

THE WITNESS: Right.

MR. MORRIS: I offer it in evidence.

THE COURT: Show it to counsel.

MR. MORRIS: Shall I mark it for identification?

THE COURT: You don't have to as long as you are offering it now.

(Pause.)

Gentlemen, whether it is accurate or not, he

says that this is the result of his study of the problems that are presented there.

MR. LAND: May I have a brief voir dire on this document, your Honor?

THE COURT: Okay.

VOIR DIRE EXAMINATION

BY MR. LAND:

Q Mr.Olnek, I presume you prepared these statistics from some other written data, is that correct?

A Yes, that's correct.

Q Then this is a summary, then, of something else?

A Right.

Q Do you have the other data with you?

A Let's see. [illegible]n Leader House?

THE COURT: I would suggest that you have all of that ready for cross-examination and then move to strike any exhibit that you feel is not supported at the appropriate time.

MR. LAND: [illegible], your Honor, very well.

THE COURT: [illegible]at sound agreeable?

MR. LAND: No objection, reserving our motion to strike.

THE COURT: It will be received in evidence.

(Plaintiffs' Exhibit 48 was received in

xxx

evidence.)

THE COURT: The witness will be good enough to get ready for questions on cross-examination that amplify or the basis, rather, of the details on which the last exhibit, Plaintiffs' Exhibit 48, was received in evidence.

(Witness temporarily excused.)

With that understanding we will go to the robing room in order to meet the wish of Mr. McLoughlin from the State Attorney General's office, and we will return at two o'clock promptly, on the dot.

Come on in, gentlemen.

(In the robing room.)

THE COURT: You want this on or off the record?

MR. MC LOUGHLIN: I guess it should be on the record, your Honor.

THE COURT: I don't know what you have in mind, so you have to tell me.

MR. MC LOUGHLIN: I have been sitting here, as your Honow know, during the course of the trial for almost three weeks, and I don't find that the State really has any reason to be here. I have no questions or witnesses. I have spoken with counsel and Mr. Morris has indicated that he would not be averse to discontinuing the action as against the State and the Housing Commission, and I wan t to

get your Honor's reaction or the other gentlemen's reaction as to anything they have which might be adverse to that.

THE COURT: That is the position you place on the record in behalf of the State of New York.

Mr. Morris, would you say a word or two on that? Is that agreeable with you?

MR. MORRIS: Yes. There is only one respect in which the State might conceivably be involved in this action or, really, two respects. One is the State did finance two of the Mitchell-Lama projects that are in the area, Sites 1, 2 and 3, and one of the other sites.

MR. MC LOUGHLIN: 4.

MR. MORRIS: 1, 2 and 3 -- 4 was not a State job. But there is one other one. I don't recall what it is.

And except for those there is no actual point at which the State should be involved so far in the litigation.

During the settlement taks, however, there was a point at which the State did become very much involved, and that was in connection with the financing of the projects which have not as yet been completed in the West Side Urban Renewal area, those projects which were planned but not completed.

As to those, an arrangement was made as part of our settlement talks -- it was one of the accomplishments that we suggested in bringing about as a result of the several months of settlement talks that your Honor allowed us during the trial. That did result in a commitment by the State of New York to take over the financing of remaining projects in the area. They have already proceeded, I understand, with the financing of Sites 41 and 44 and have made a statement to the effect that they will finance the remainder of the seven or eight sites as soon as funds become available for doing so.

Now, that was a result which all of us desired. There is no issue as to that. Both the city and the State and Strycker's Bay and us and everybody is very happy about that because that will complete the project, which is what I think is the objective of all parties concerned.

Therefore, I see no issue as to that either. For that reason, although the State is involved, I see no point at which they are involved where an issue might become pertinent to the situation.

THE COURT: In the lawsuit?

MR. MORRIS: In the lawsuit.

THE COURT: Mr. Gold, what do you want to say?

MR. GOLD: Your Honor, I have no objection to

Mr. McLoughlin's --

THE COURT: You mean the State withdrawing, dismissing the action?

MR. GOLD: Perhaps with one reservation, and that is I intend to call the State Housing Commissioner, Mrs. Lee Goodwin.

THE COURT: That is as a witness.

MR. GOLD: I am concerned, however, that someone from the Attorney's General's office, and I think she would want that, be present in the event she does testify.

THE COURT: Mr. Gold, coming as a witness is one thing. There is an issue before me, and that is the equivalent of a motion to drop the proceedings before me so far as they relate to the State. The State asks or moves that the proceedings be discontinued as against the State.

Now, that is the only issue.

Has the City any objection to that?

MR. GOLD: No, your Honor.

THE COURT: What does the Government say?

MR. LAND: We are agreeable to that, your Honor.

THE COURT: What does Mr. Douw say?

MR. DOUW: No objection.

THE COURT: Very well. Since there is no objection by anybody, the motion is granted and the proceedings are discontinued as against the State. We would hope, of course, that at the appropriate time, if that time comes to pass, that the State will go forward in a way that would be helpful to the end sought by the litigation, but that, of course, is something that can't be compelled in the light of what we have just heard from counsel, that they have no objection to the State pulling out.

Accordingly, the motion is granted and there being no objection to the motion.

Is there anything else?

MR. MC LOUGHLIN: If I may say one thing, your Honor. As far as I can possibly do so, I will aid the Court.

THE COURT: I had no doubt about that. I am sure the State, as a sovereign power, has not forgotten the old-fashioned concept of coming in amicus curiae, or any other way to show that it is not looking to save, it is looking to help, it is looking to protect, it is looking to give wherever it possibly can consistent with the policies of the State, and therefore to that end please understand we would like very much to have you on hand and

you are welcome at any time in any proceeding, any phase of this matter, and I thank you for coming into it in the first place, and for your courtesy to the Court.

That's it, gentlemen. Two o'clock.

MR. MORRIS: Can we discuss informally off the record the question of the additional time that your Honor inquired about?

THE COURT: If you want to informally off the record for a minute or two, sure.

Off the record, Mr. Wolf.

(Discussion off the record.)

THE COURT: Very well, gentlemen. Thank you.

(Luncheon recess.)

2:00 P.M.

C H A R L E S H. T E N N E Y, called as a witness by the Government, having been ~~fiost~~ first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LAND:

Q Judge Tenney, from the period April 1961 through January of 1964, were you deputy mayor of the City of New York and also the City Administrator of the City of New York?

A I was, yes.

Q Prior to April of 1961 were you the corporation counsel of the City of New York?

A Yes, I was from 1958 to 1961.

Q During the period from 1961 to 1964, were you a trustee of the Trinity Episcopal School Corporation?

A I was.

Q While a trustee of Trinity were you generally aware of Trinity's interest to sponsor a project within the West Side Urban Renewal area?

A I was.

Q At any meeting of the trustees board at which you were present do you recall Mr. Elliot Lumbard stating that Mr. Mollen had told Mr. Lumbard that Mr. Lumbard on behalf of Trinity could rely upon the West Side Urban

Renewal Plan as then in effect?

A I have no specific recollection. I know that the trustees were interested in the plan and the type of housing, and I can recall just faintly Mr. Mollen being involved because he had served under me when I was corporation counsel.

Q At any similar meeting of Trinity's board do you recall ~~rbcall~~ whether Mr. Lumbard stated that Mr. Mollen told Mr. Lumbard that Mr. Lumbard on behalf of Trinity could rely on the site designations within the West Side Urban Renewal area then in effect?

A I have no recollection of that specifically, no. I can recall the matter being discussed occasionally. This is a good many years ago. I don't remember any specific representation being stated. It could have been. I don't want to say that it was not. Possibly I would have remembered if there had been a flat statement that we could not rely or there was serious question about it. But beyond that I could not say.

MR. LAND: No further questions.

THE COURT: Any examination by Mr. Gold before Mr. Morris takes over?

MR. GOLD: No questions.

MR. DOUW: No questions.

THE COURT. Mr. Morris.

CROSS-EXAMINATION

BY MR. MORRIS:

Q Judge Tenney, did you attend a meeting of the board of trustees of the Protestant-Episcopal Public School in or about February 2, 1966?

A It is possible. It is quite proably yes. I cannot tell you specifically.

Q I show you these minutes of a meeting of the board of trustees on that date and ask you if this refreshes your recollection as to whether or not you attended a meeting at that time dealing with the Trinity School.

A Yes, it so states.

Q Do those minutes indicate that there was a full discussion of the situation with respect to the Trinity School?

(Pause.)

A There is no question. There were many discussions. As I say, I don't remember specifically at this date the representation that I was asked about.

Q Judge, was it your recollection that in the course of the discussions at the meetings of trustees the subject was brought up with respect to the development of the West Side Urban Renewal plan and Trinity's interest

in the development of that plan as it related to Trinity proceeding with the development of the school extension and housing on Site 24?

A Yes. There is no question that the trustees were interested in the type of housing that went on, that was going to go up, in the neighborhood of the school.

Q Wasn't it true that one of the predicates upon which the trustees based their decision to obligate themselves for almost $9 million of loans and investments in the development of Site 24 which included the extension of the Trinity School and the housing on the air rights above the school was related to the representations made by the City with respect to completion of the West Side Urban Renewal plan?

MR. LAND: I object to the question as putting in facts which have not yet been evidenced.

MR. MORRIS: I respectfully submit, your Honor --

THE COURT: Objection overruled.

Can you answer that, Judge?

THE WITNESS: I can answer it, Judge.

The type of building that was to go up in that neighborhood was a concern of the trustees. There is no question about it. All I am saying is that I don't recall any specific statement by Mr. Lumbard or Mr. Glover --

Q Glover Johnson?

A That's right.

-- Glover Johnson, of any firm commitment. There may have been an understanding or an assumption because it was of concern to the trustees, but, as I say, it is a good many years ago. There were many discussions. I know that Mr. Mollen's name came into the discussion becuase I had him working for me at one time.

Q Did you attend a meeting of the trustees on February 1, 1967, at which the subject of the Trinity School was discussed?

A It indicates that I was there.

THE COURT: Judge, would you be good enough to look at this and see if it triggers your memory that there was such a meeting and the subject matter there encompassed did come up?

THE WITNESS: Maybe I will see something in here --

THE COURT: Take your time. Examine it and see if it triggers you memory as to what took place.

(Pause.)

THE WITNESS: Yes. I remember about the financing, that the New York Bank for Savings was given a letter of intent to lend $1 million.

I remember Dr.Craig resigning.

As I say, Judge Cooper, this was a matter that was discussed at a great many meetings.

THE COURT: Would you mark that last paper for identification, please, Mr. Clerk, and the prior minutes that were handed to the Judge are also to be marked for identification.

MR. MORRIS: It was my thought -- there are four of them. I would like to mark them as the same exhibit.

THE COURT: Please be good enough to follow the Court. The Judge is here now. I don't know how much more you will show him. These are the documents that were shown him. That is the only purpose.

xxx (Plaintiffs' Exhibit 49 was marked for identification.)

THE COURT: Is that the one the Judge just examined?

MR. MORRIS: That was the first one. This is the second one.

xxx (Plaintiff's Exhibit 50 was marked for identification.)

THE COURT: Proceed, please.

Q Did you in fact attend a meeting of the board

of trustees on May 1, 1968, which discussed the question of the development of the Trinity School?

THE COURT: Showing the witness minutes of what date?

MR. MORRIS: May 1, 1968.

THE COURT: Thank you. Take your time, Judge. Look it over and see if it refreshes your recollection as to that particular event.

(Pause.)

A Yes. I remember the matter of changing the name of the corporation. I remember this meeting.

THE COURT: Mark that for identification, Mr. Clerk, please.

xxx (Plaintiffs' Exhibit 51 was marked for identification.)

Q I show you minutes dated February 2, 1966. I ask you if these refresh your recollection as to a meeting you attended where they discussed the situation with respect to the investment in the Trinity School housing on Site 24 on the West Side Urban Renewal area?

A I think I already saw this one. I believe so. I did attend this meeting.

THE COURT: Mark that for identification, Mr. Clerk.

Those are the minutes of February 2, 1966.

xxx (Plaintiffs' Exhibit 52 was marked for identification.)

End 1

Q Now, referring to these minutes which are marked for identification as Plaintiffs' Exhibit 52, is there a statement in there that the Board approved the recommendation of the Ad Hoc Committee to have the corporation sponsor the entire project?

A Yes.

Q Isn't it true that the boards did in fact sponsor the project involved in the development of the school and housing on Site 24?

A That's my recollection.

Q Is it your recollection that in the course of the approval of this, that trustees were concerned with the nature of the redevelopment and what it would do in the area in which the Trinity School was located?

A Yes. I have some evidence.

Q Is it true also that Trinity, prior to that time, had considered leaving the area and continuing the school up in Pawling, New York?

A I have no recollection of that. There was concern about the neighborhood, as I said, but I don't believe they were going to abandon the school in the city. I think I would have recalled something as drastic as that. After all, they had a school building there.

Q But that was an old building, wasn't it?

A It was an old building.

Q Is it true that in making the commitment to the development of the new project and the school extension, that that board of trustees had desired to make a continuing long range commitment to this area?

A There was talk about making the school facilities available for community services, and things of that nature.

Q But I mean the extension of the school facility executed a commitment by the school to extend on a long range basis its continuance of the school in that location, isn't that so?

A Yes, they were putting a great deal of money into this thing.

Q That's right. It was about $9 million, wasn't it?

A I have forgotten now, but I know it was a lot of money.

Q Yes. And that was a commitment which would not have been made unless the trustees were satisfied that the area would be an appropriate area in which to conduct the affairs of the school, isn't that so?

A Well, I can't say for the other trustees. You would have to ask them. All I am saying is that

the neighborhood was a matter of concern, that they were putting in a substantial amount of capital into this venture. But beyond that I really couldn't speak for the other trustees. We had a separate committee, as I recall, for this project, the Pawling Wing, or whatever they called it, and I wasn't a member of that committee.

Q But that committee did report back to you as a member of the board of directors?

A Yes.

Q So that you were kept apprised of what was being done with respect to the development of the project?

A We had a great many meetings on the subject. Primarily, I would say, though, they were meetings dealing with the financial impact on the school.

MR. MORRIS: That's all.

THE COURT: Anything further of the Judge?

MR. LAND: Nothing, your Honor.

THE COURT: Very well, gentlemen. Thank you, your Honor.

(Witness excused)

THE COURT : I think it no more than fair that a witness who has not completed her cross-examination be called back. I don't know how long that is going to

take. You people had already examined her and I told you I would give you further opportunity to reflect if there was anything further to add. It may be she won't be detained long. Don't you think that is right?

MR. MORRIS: Yes, your Honor.

THE COURT: Come back, madam.

XXX

L I S A K O L B L I E B E R T , recalled as a witness, being previously sworn, testified further as follows:

THE COURT: All right, Mr. Douw.

CROSS EXAMINATION CONTINUED

XXX

BY MR. DOUW:

Q Mrs. Liebert, when the Court adjourned on Wednesday I was asking you about the tenants in your brownstone at the time that you purchased it. I believe you testified that at that time there were seven families and six single families. Is that correct?

A Yes.

Q Did the families have relocation rights, if you recall?

A Not all of them in fact qualified under the relocation regulations. It is my memory that those families which did not have children, and there were

certain age exceptions as well. However, we did assure all of the tenants who were in the house that if they so desired we would relocate them through the City.

Q You mentioned age limitations. Can you explain further what that means?

A To the best of my knowledge, there was, for example, a single man who was not --

Q I am sorry. I am just speaking about the families.

A I am sorry. I included that when I answered before. I do not know what age limitations there were for family units.

Q Did all of the families have the right to be housed in the area, do you know, the Urban Renewal area?

A I do not know.

Q As for the single persons, did they have relocation rights?

A Those over 65, to the best of my knowledge, did. Single people below that age I believe did not.

Q Did those that were over 65 and had relocation rights, did that mean the right of payment, sums of money?

A No. It meant, to the best of my knowledge,

that the City would find them standard housing.

Q Did that mean housing within the Urban Renewal area?

A Explicitly, to my knowledge, it was not housing within the Urban Renewal area.

Q Turning to another subject, I believe you testified it was in 1971 for a period of six months that you put your brownstone up for sale. Is that correct?

A Yes.

Q And it was through Mr. Haldenstein as a broker that you put the house up for sale?

A Yes.

Q Is Mr. Haldenstein a member of CONTINUE?

A Yes.

Q A member of the board of directors?

A I am not sure.

Q And can you tell us approximately what time after the six month period you took it off the market again?

A We had put it on the market sometime after Christmas, I would say January or February. We took it off the market roughly at the end of the summer.

Q January or February of 1972, do you mean?

A '71, I think.

Q Did you put it up for sale sometime in 1970? Is that correct?

A No, January, 1971.

Q I am sorry.

A January or February, 1971.

Q You put it up for sale?

A Yes.

Q And took it off approximately six months later?

A Yes.

Q I see. You testified that you put it up for sale again in August, 1973, is that correct?

A Yes.

Q And was that again through Mr. Haldenstein as broker?

A Yes.

Q And in February, 1974, you got another agent in addition to Mr. Haldenstein, is that correct?

A Yes.

Q Was Mr. Haldenstein aware that you got another broker?

A Yes.

Q Through which broker did you contract to

sell with Mr. Monroe?

A Mr. Haldenstein.

MR. DOUW: I have no further questions.

THE COURT: Anything further by way of cross, gentlemen?

MR. GOLD: No, your Honor.

MR. LAND: No, your Honor.

THE COURT: Do you have anything further, Mr. Morris?

MR. MORRIS: Yes, I have.

THE COURT: All right, redirect.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q Mrs. Liebert, you testified that there was a 25/50/25 allocation of housing units in the earlier plan, 25 low income, 50 percent middle income and 25 percent luxury. Was that subsequently changed?

A To the extent that the high-rise buildings which had been projected, particularly to my knowledge the one catty-corner to my house, were abandoned as luxury housing.

Q So that in connection with the new buildings to be built in the West Side Urban Renewal area, did they eliminate from the plan all provision for the construction

of luxury or fully taxpaying housing?

A To the best of my knowledge, they did.

Q Now, would you tell us why you agreed to go into the neighborhood when you knew there would be 2500 units of low income families? What was it --

THE COURT: I thought she covered that pretty thoroughly on direct. If she didn't. you have no right to pick it up now, sir.

MR. MORRIS: She was cross examined as to that, sir. I wish to make the point --

THE COURT: She already testified on that score on direct. She was cross examined on it on redirect. Unless there was some one phase of it you wish to call to her attention, I am not going to let you go into it all over again.

MR. MORRIS: The phase that I wish to call to the attention of the court is:

Q Is it because you were interested in a segregated area that you made your commitment to buy into this community of the West Side Urban Renewal area?

A She said that in the most unambiguous terminology and clinched it forwards and backwards. That's my memory.

MR. MORRIS: I am very happy about it.

THE COURT: That is my memory. Gentlemen, if I am mistaken, speak up right now. You can't let me act on an assumption that isn't solid.

Q Mrs. Liebert, did you understand that Stage 3, which is the area in which you are located in in the West Side Urban Renewal area, that is, the area south of 90th Street, would still not be built in 1974 or even started?

A No.

Q You didn't understand that?

A No.

Q So that the progress of the West Side Urban Renewal planned development has not been in accordance with what you understood when you made your commitment to come into the area, is that right?

MR. LAND: We object to the question.

THE COURT: If I could take her answer and call this case closed, I will do. The law says no, you can't.

Objection sustained.

MR. MORRIS: That's all.

THE COURT: Madam, will you listen carefully to the question that I said you had to answer backwards and forwards. Do you remember that question?

THE WITNESS: Yes.

THE COURT: Have you not done so from the witness stand in this trial?

THE WITNESS: Yes.

THE COURT: Thank you. All right.

MR. MORRIS: That's all.

THE COURT: You may leave.

(Witness excused)

THE COURT: All right, Mr. Olnek.

Gentlemen, we carry on until I have to leave at a quarter to 4:00. You have an hour and a quarter.

I will break away from the meeting no matter what goes on. I have a trial, and that's this trial. I will just go and do what my conscience tells me I should do and I ought to be back here by 6:00. Be prepared for 5:30.

MR. MORRIS: 5:30 you told us.

THE COURT: If I can manage to be back here by 5:30 I will. Don't forget, this is a locked-door business.

All right.

J A Y I . O L N E K , recalled as a witness, being previously sworn, testified further as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Olnek, when you rented up Leader House, were you given certain income limits which were applicable to the 236 housing which was being built -- which was being rented at that time?

A Yes.

Q I show you this schedule called Leader House, Section 236 schedule based on 135 percent of public housing --

THE COURT: Hereafter no paper is to be shown unless it is marked for identification. If any paper is shown to a witness, you must repeatedly have the record show what paper he is being shown.

MR. MORRIS: I ask it be marked for identification.

THE COURT: All right, Mr. Clerk.

(Plaintiffs' Exhibit 53 was marked for identification)

Q Mr. Olnek, I show you Plaintiffs' Exhibit 53 for identification and ask you to tell the Court what this paper is?

A This is a breakdown of the 236 schedule. It shows the number of apartments, the size of the apartments, the approximate size of the apartments, the

approximate number of persons that can go into the apartments, the adjusted maximum income limits. These are FHA, FEderal Housing Administration, or HUD income limits for persons to qualify for 236 assisted housing. Then it has a column showing the minimum rent for the 236 apartment, including utilities, and then it has a column less electricity, because the electricity was not included in the rent, whereas the 236 program is based on electricity including the rent. So in making various computations you have to subtract the electricity.

Then it has net rent to housing company, being the difference between basic rent less the electricity.

Q Is that schedule the schedule upon which the apartments, the 236 apartments, in Leader House were rented?

A Yes.

MR. MORRIS: I offer it in evidence.

THE COURT: Show it to counsel.

MR. GOLD: Your Honor, this is the same type of schedule we have seen on Westwood House and Columbus Manor last week. I think we will have a decision on this tomorrow as to what they are about. In the meantime, could we just hold the actual offer in abeyance.

THE COURT: I think that is a good idea. Is that satisfactory?

MR. MORRIS: Satisfactory.

MR. GOLD: Then they will all --

THE COURT: I said it is satisfactory. When you get what you want. hold it.

MR. GOLD: You are right.

THE COURT: That's it.

Q Mr. Olnek, did there come a time when you received from the Housing and Development Administration a memorandum relating to the occupants of Leader House?

A Yes.

MR. MORRIS: I ask that this exhibit be marked for identification. It is a memorandum of January 8, 1973, from the Housing and Redevelopment Redevelopment Administration.

(Plaintiffs' Exhibit 54 was marked for identification)

xxxx

Q I show you Plaintiffs' Exhibit 54 for identification and ask if you ever saw this memorandum or letter before?

A Yes.

Q And would you tell the Court what the letter consists of?

A Well, it is a letter to various management agents and also to the Housing Development people from the administrator of the Housing and Development Administration.

Q What is his name?

A Andrew Kerr at that time. And it indicates they were much upset about the breaching of the 70 percent/30 percent schedule between modera and low income and that the schedule should be strictly adhered to in the future.

Q Did you receive that memorandum from the Housing and Development Administration?

A Yes.

MR. MORRIS: I offer it in evidence.

THE COURT: Any objection, gentlemen?

MR. GOLD: No objection, your Honor.

THE COURT: Received. Mark it, Mr. Clerk, please.

(Plaintiffs' Exhibit 54 was received in evidence)

xxxx

MR. MORRIS: I would like to read to the Court excerpts from this memorandum, Plaintiffs' Exhibit 54.

It is a memorandum dated January 8, 1973, from Andrew P. Kerr, the Housing Development Administrator, to Commissioner Villanueva, Mrs. Ellis and all West Side Urban Renewal area managing agents.

"In 1971, after lengthy discussion in the West Side Community and due consideration of the needs and character of that community, HDA agreed, with the express approval of the Mayor's office, to a new policy concerning the tenant mix in all buildings which have the benefit of interest reduction subsidies under Section 236 of the National Housing Act in the West Side Urban Renewal Area. The policy which was first adopted by Community Planning Board No. 7, calls for maintenance of a ratio of 70 to 30 between moderate and low income families in 236 buildings. (For this purpose, moderate income refers to families and individuals meeting the income requirements of Section 236 program, including the exception limits, if and when allowed by HUD.)

"As you know this policy has been violated three times recently -- in tenanting of Leader House, Columbus Manor and Westwood House. Such breaches, which

have aroused widespread community concern, are not to recur. Lest there be any misunderstanding on this point, let me reaffirm that the City is committed to the 70-30 policy. As part of that commitment, I insist that the three buildings where the policy has been ignored be restored, over time, to that mix through ordinary turnover (harassment of tenants to hasten the restoration of that mix will not be tolerated.)

Q Mr. Olnek, would you describe for the Court the situation with respect to the tenantcy and the operation of Leader House after it became tenanted in the manner in which you have described?

A With respect to the operation of Leader House, we had various problems with respect to garbage going out the window.

MR. LAND: Objection unless the man had a personal knowledge of these events.

THE COURT: Either personal knowledge or information from a created source under him in reporting to him. I see nothing wrong in accepting that kind of testimony.

ON what do you base that, Mr. Witness, what you are about to recite?

THE WITNESS: These reports I received from both the managing agents visiting the building plus from

the conversations with the superintendent.

THE COURT: Were those people under you in the course of your work?

THE WITNESS: Yes.

THE COURT: Was it your frequent obligation and theirs to discuss the status of the building and what went on in the building?

THE WITNESS: Yes.

THE COURT: With what frequency did you gather such reports?

THE WITNESS: I spoke with the superintendent every week. He would come to my office every week on Wednesday. I would see the renting agent a couple of times a week.

THE COURT: And the conversation you are about to relate was made between you and who?

THE WITNESS: The conversations were with Rafael Sifonte, the superintendent, and also conversations I had with Barbara Tilman, the managing agent, and also wit h Louis Morgan, a managing agent.

THE COURT: You will have to be specific as to the times during which you received these reports.

THE WITNESS: These reports were received continuously since the opening of Leader House.

THE COURT: Were those two people there from the beginning?

THE WITNESS: The superintendent, Rafael Sifonte was there from the beginning until a couple of months ago.

THE COURT: You mean in '74, a couple of months ago?

THE WITNESS: Yes.

And the original managing agent for the building was Louis Morgan until about perhaps a year or maybe six months after the building opened up, and then it became Barbara Tilman.

THE COURT: The Tilman person, how long was she managing that building?

THE WITNESS: She has been managing it since perhaps March of '73. The building opened around August of '72. In between the period Louis Morgan was --

THE COURT: That you made clear.

This Tilman person has been there from the summer of '73?

THE WITNESS: Actually prior to working as managing agent for the building, she rented the building so she was there from the very inception of the building.

THE COURT: Did she make reports to you at the very beginning? Make it clear to me. These are people

you are associated with.

THE WITNESS: I did state --

THE COURT: No, you didn't. How long has she been making reports to you about that building?

THE WITNESS: She did not of course make any reports to me until the building -- until the building started operating.

THE COURT: What are we on now? Isn't that the subject?

THE WITNESS: Yes.

THE COURT: Stick to it. I don't care when she started.

THE WITNESS: I had various reports from her both as a renting agent prior to her becoming the managing agent -- I had reports from her with respect to the building in 1972 and prior thereto with respect to renting.

MR. LAND: Your Honor, we do believe his statements now as to what somebody else said to him, even if in his employ, are hearsay nonetheless and inadmissible. We don't know whether these reports are in writing. So long as the people are available -- as a matter of fact Mr.Safonte was one of the witnesses to be called until it was discovered we needed an interpreter.

We submit they are available. We submit we are

going to hear inadmissible hearsay.

MR. MORRIS: Your Honor, this witness is being called as the managing agent who has full responsibility and full charge of the operation of this property. In connection with the operation of a large property like this he has certain staff people who do certain things in connection with the operation of the building that he looks to them to do. He, however, is the party basically and primarily responsible for the operation of the building and therefore I respectfully submit is entitled to testify with respect to conditions and circumstances that exist with respect to the building.

THE COURT: Provided the foundations are well laid. You can't have him come in here and tell me in a general way what he gathers was the essence of what they had to say. If there were no written reports that should be established. I should not be called upon to put in and lay any fonndation.

I don't go all the way with Mr. Land, but unless you cure the omissions I may have to sustain him.

BY MR. MORRIS:

Q Mr. Olnek, were written reports made to you from the managing agents and from the superintendents of the building and the other people you looked to for informa-

tion or were they oral?

A Reports from the superintendent were oral. I got both oral and written reports from the managing agent.

Q Do you have those written reports with you?

A No, I don't.

Q Could you tell us what the oral reports were that you received? Were those in the ordinary course of business and in the ordinary course of the way you conduct your business in the running of these buildings?

A Yes.

MR. LAND: Your Honor, if Mr. Morris is attempting to establish an oral report is a business report, I would interpose an objection. I know of no exception to the Business Record Rule as to oral reports.

THE COURT: The defect, as I see it, is to lump it all together. I was considering taking testimony if it was pinpointed so you people would have an opportunity to know what days he is talking about, who said what in this reporting stage. After all, what is your argument about this witness being the one who would gather those reports in the regular course of business? I do not know of any exclusion of an oral report made that way. The regular business report to which you alude is one rule, but that doesn't exclude what is being attempted here if it is

done properly. If not I am not going to allow it.

I suggest, Mr. Morris, that the witness should get those written reports and first let's see what they demonstrate and that might support your right to go into oral material that was offered to him.

BY MR. MORRIS:

Q Are you familiar with any of the things you are about to testify to on your own knowledge or is it all based on reports obtained from people?

A I have visited the building on a number of occasions myself.

Q Tell us how frequently you visited the building yourself.

A Perhaps once every two or three months.

Q Has that been true since the buildings were opened several years ago?

A Yes.

Q So you have business at the buildings frequently?

MR. LAND: I object to the characterization "frequently."

THE COURT: Objection sustained. Stricken.

Q Tell us what you observed on your own visits to the building, what you personally observed yourself.

THE COURT: You are talking about the Leader

Building?

MR. MORRIS: Yes.

THE COURT: You say "buildings."

MR. MORRIS: We were on Leader House.

THE COURT: You yourself said "buildings," plural.

A Well, I noticed some graffiti on the Columbus Avenue side of the building.

I was also shown some painting on some hallways within the building.

THE COURT: Can you be more particular?

THE WITNESS: On the upper stairs there was some -- paint marred the hallways on the upper stairs.

In addition I was shown dog excrement on the top staircase of the building. In other words, they had taken the dog within the building to go.

I also noticed a number of what appeared to me to be an excessive number of people coming into the building.

Q Did you notice people standing outside of the building in front of the building?

A On a couple of occasions I did notice a number of people standing around the building.

Q Were complaints made to you with respect to crime and dope addicts in the building?

A Yes.

Q Were complaints made to you with respect to prostitution in the building?

A Yes.

Q Tell us what those complaints were.

MR. LAND: Objection, your Honor.

THE COURT: Sustained.

MR. MORRIS: I ask that this letter from Mr. Olnek to the Police Department, dated June 15, 193, be marked for identification.

xxx (Plaintiffs' Exhibit 55 was marked for identification.)

Q I show you Plaintiffs' Exhibit 55 for identification and ask you if this is a letter written by you to the police department.

A Yes.

Q Would you tell us the circumstances under which that letter was written?

A The superintendent spoke to me and he was concerned, one, about the safety of his own family, to be quite frank with you, and about so many people coming into the building, he said, to buy drugs from people in apartments within the building.

In addition, there were, he said, a number of

apartments where men were coming to the apartment at night, an excessive going to a number of apartments, and he believed thatprostitution also was being carried on in the building, and I wrote this letter to the Police Commissioner requesting help in connection --

THE COURT: Just go easy.

You were asked a question and you launched into a long answer which you, as a lawyer, should know is not proper.

At any rate, that last exhibit has been marked 55 for identification.

MR. MORRIS: Yes.

THE COURT: Are you offering it in evidence?

MR. MORRIS: Yes.

THE COURT: Show it to your opponents and see if there is any objection.

(Pause.)

MR. LAND: Your Honor, what is the purpose of putting this letter into evidence?

MR. MORRIS: If I had him testify to the event without showing a letter that was written contemporaneously at the time, Mr. Land would be upon his feet objecting. If there is a writing on that, he wants it produced. In response to Mr. Land's anticipated request, I am producing the

writing.

MR. LAND: We will concede that Mr. Olnek wrote a letter to the Police Commissioner on that date.

THE COURT: It will be received.

MR. LAND: The purpose of the proof of the letter was a letter was written. We will concede a letter was written. That ends the need as proof of the letter as a document in evidence.

MR. MORRIS: I am submitting it for the contents of the letter as well, and I respectfully submit that it is relevant to the proceeding.

THE COURT: Objection overruled.

Received in evidence.

MR. LAND: We would like to note our objection to the contents, the contents being themselves hearsay.

THE COURT: Very well.

xxx (Plaintiffs' Exhibit 55 was received in evidence.)

MR. MORRIS: I would like to read this letter.

THE COURT: You don't need to. It is in evidence. I can read it. It will not stand for the recital of what was told to the defendant, but it will stand with regard to the general overall situation without the specifics; do you understand that, Mr. Morris.

BY MR. MORRIS:

Q Did there come a time when as a result of the conditions you testified to it became necessary to have police surveillance at the building?

A Yes.

Q Tell us what occurred with respect to that.

A Well, upon receiving these numberous requests from the superintendent, I contacted -- I called first actually -- the local precinct who in turn referred me to the OCCB in Centre Street, office of Crime Control Bureau or something like that. I spoke with them.

When I was not getting what I thought was much results I then wrote to the Police Commissioner.

Q That is what occasioned your sending Plaintiffs' Exhibit 55?

A Yes.

Q As a result of your sending Plaintiffs' Exhibit 55, has there been surveillance by the police department of this building?

A Yes.

Q Woult you tell us what that surveillance is, to the best of your knowledge?

A Actually, I first received an acknowledgement from the Police Commissioner and I was contacted by a

sergeant from the Police Department. He spoke with me a number of times. They have assured me that the building is being watched closely.

Q Has there been any change in the doorman service to guard service in the building in view of this condition?

A Well, actually, the tenants themselves requested a change from doorman to guard service and we have made one change with respect to one shift, the midnight to 8:00 A.M. We have a guard instead of a doorman there.

THE COURT: Beginning when?

THE WITNESS: That actually took place about a month ago,but we have been unable to make a shift with respect to the other doorman because of a union problem.

Q So that as of now the building has one guard in place of a doorman, is that right?

A Yes. We will be replacing the doormen with guards when they leave.

Q Mr. Olnek, would you tell the Court the timing or the date during which the occupancy of the building occurred from the time you had your first meeting with the Housing Development Administration and the actual commencement of leasing of apartments in the building?

A Well, actually, we met at the end of December, 1971, at the Commissioner's office. At that time the

building was approximately scheduled for completion at the end of March, however --

MR. LAND: Mr. Olnek is reading from notes again.

THE COURT: I wish you would put your notes away.

Q As a matter of fact, do you have a memorandum of the dates of these meetings?

A I have here a schedule, a time schedule, for rental of Leader House.

Q Where did you get that?

A My first meeting at Commissioner Coniglione's office with respect to Leader House.

Q It was given to you at that meeting?

A It was distributed by the Commissioner's office. I don't know whether it was prepared by the City or prepared by Strycker's Bay.

Q It was prepared by one of the defendants in this action?

A Yes.

Q That was given to you?

A Yes. This was the schedule that we started to follow.

MR. MORRIS: I ask it be marked for identification.

THE COURT: Mark it please.

xxx (Plaintiffs' Exhibit 56 was marked for identification.)

Q Does this Plaintiff's Exhibit 56 for identification set forth the dates and the schedule of the renting of apartments in Leader House?

A Well, no and yes. In other words, this was the original plan of renting but then they kept on advancing the dates. In other words, it says here January 4 to February 29, inclusive, renting for West Side Urban Renewal area for relocatees. But they kept making it later and later so that it was not until I believe the end of June that they allowed us to resubmit applications from anyone other than relocatees.

Q Would you tell us whether the other dates are correct as reflected in that statement?

A Well, these were merely the original schedules but these were all advanced to a later time.

Q Would you tell us approximately when they were advanced to? Give us the dates that were told originally and then the date they were advanced to.

A Basically, if I recall, it was at the end of June that we could start taking people other than people with priorities.

Q What is the date shown on the paper that was given to you at the meeting?

A Here it would be January 4 to February 29 for relocatees; March 1 to March 31 for people with priorities from other Urban Renewal areas and veterans.

Q What other dates?

A The other date they have here, April 1 to April 30, all applicants in chronological order.

Q That last category, all applicants in chronological order, when did that occur actually as against the time set forth in that schedule?

A Actually they never really followed that. They changed that to only applicants of the West Side area could come into the building. In other words, it would be in chronological order.

MR. MORRIS: That is all.

THE COURT: Very well. Cross-examine.

MR. LAND: Is this document going to be put in evidence?

MR. MORRIS: No.

THE COURT: He didn't offer it.

MR. LAND: Your Honor, with respect to Exhibit 48 in evidence, we had a reserved motion to strike because this exhibit was made up from other written documents.

THE COURT: A reserved motion to strike in the event during the course of your cross-examination the figures were not fortified by detailed material.

MR. LAND: All right.

THE COURT: You have not started to develop the point that I made. You have not begun. You have not asked any questions. Do you want to strike it now? No.

MR. LAND: It is our understanding of evidence that to put a summary of evidence in evidence, before that summary may be introduced the underlying documentation on which that summary is based must be put into evidence first.

THE COURT: According to the way things have been going on both sides I have to pick up whatever I can and knit it together. That is the usual routine but this is different. I wish it was done the ideal way. I would not be called in to butt in. It has been pretty hard on me when it is done this way. I think it is a document that should go in in the event it is supported by testimony. If it is not, I told you before, you can make your motion to strike it.

CROSS-EXAMINATION

BY MR. LAND:

Q Mr. Olnek, I believe you testified in respect to Plaintiffs' Exhibit 48 that the computations listed there

were based upon other written documents.

A Yes.

Q Is that correct?

A Right.

Q That some person in your office had put together, is that right?

A I put everything together except this (indicating).

Q There are other documents which you have used to get these figures?

A Yes.

Q Are those other documents here?

A Yes. I think so.

Q Can I have them?

A This here is a schedule, a rent schedule, for the building. It is the fair market schedule together with a description.

Q Is there anything else besides this that you used?

A Well, I have here the welfare applications of people who moved in. This is 20 welfare studios, 29 welfare one bedrooms, and here are four people who went from welfare to 236. In other words, there are 49 still on welfare plus these four no longer welfare, but 236, and then here are three welfare who moved out.

In addition to that, that schedule there also shows by an asterisk on that schedule which apartments are the public housing apartments. On that schedule over there (indicating), the rent schedule. Underneath there is an asterisk next to each apartment taken by public housing. This was the original schedule for the building that was approved by the Housing and Development Administration together with their approval letter.

Q Can I have the rest of the documents you looked at?

A We have this (indicating).

Q And that's it?

A Actually, I guess that's it. There is this here but it is not correct. This is a breakdown of the number of apartments but there was a change made among the two bedroom and one bedroom apartments, I believe. There is a different number.

MR. LAND: Your Honor, as we can see, the summary sheet is apparently based upon a ream of papers that I would conservatively say is three-quarters of an inch thick. Whatever is contained in the summary of necessity must be contained in these summary sheets. The summary sheets have not been offered into evidence and we submit that until plaintiff offers them into evidence the summary

sheet may not be introduced in evidence. I know of no other way to proceed.

MR. MORRIS: Your Honor, this record will be extremely loaded with exhibits before we are through. There will be literally hundreds of exhibits. I see no purpose in cluttering the record with individual applications on the part of each welfare tenant in order to inform the Court of the number of welfare tenants that there are in the building. This man is qualified to testify to the number of welfare tenants that there are in the building and therefore I had him prepare a sheet which gives the Court the information with respect to the welfare families and also to Section 23 listing families in the form of one exhibit which I figured would save the Court and the record time, intead of having literally hundreds of sheets of paper introduced which established no more than the summary statement which is introduced into evidence to which he testified he prepared from the material which he has.

I don't see that it is necessary either for its admissibility or in terms of credibility to the Court that the recording be burdened with over 100 additional exhibits that establish nothing beyond what the basic exhibit admitted into evidence already establishes.

MR. LAND: Let me give you one example.

THE COURT: You don't have to.

In most cases, Mr. Morris, this material is taken up in advance, as the Court has said repeatedly to you people on and off the record.

One lawyer, your prototype, says to his opponents, "I intend to put this schedule into evidence. It is a recapitulation of a vast body of material that was checked and double-checked. Will you concede so that I don't have to bring the material on which it is predicated into court and offer it?

"Most of the time lawyers on the other side will say, 'Sure, yes.'"

Here they do not choose to do that. Why? That is up to them. They have a right to say no. They do say no. Therefore I have got to say that that exhibit No. 48 will be eliminated and I will not receive it because it is a recapitulation. They have a perfect right to examine the material on which it was based in the absence of a stipulation.

I would suggest since this was not done, you didn't show it to them in advance, they didn't take a position, you turn over to them the material on which it is based so they could check it out and on their own time, not on your time or the Court's time, but certainly not

on the Judge's time, and do the homework that should have been done outside of the courtroom.

So, Mr. Land, please recite for identificaton purposes, I am sure Mr. Morris will not object, the documents that the witness just handed to you so that the record will show what it is that you are taking.

Is that all right, Mr. Morris?

MR. MORRIS: Perfectly satisfactory.

MR. LAND: The first is a letter dated February 23, 1972, signed by Commissioner Coniglione.

The second is a ream of Xerox papers with a heading Leader House 29 welfare one bedroom.

THE COURT: It is stapled together?

MR. LAND: Yes.

THE COURT: Leave it in that same way.

MR. LAND: The third is approximately four Xerox pages with a red penciled notation reading "Off Welfare."

THE COURT: That too is stapled. Leave it that way.

MR. LAND: The next is a number of Xerox sheets of paper stapled together under the heading "Leader House, 20 welfare studios."

THE COURT: That is stapled also. You leave it that way.

MR. LAND: The next is three pieces of paper stapled together with a notation in red indicating move-outs.

The final is a one Xerox piece of paper dated March 12, 1970, headed "Financial estimates of Leader House."

THE COURT: That is sufficient identification and they are turned over to you and your colleagues on your side of the case for examination with respect to the offer in evidence of 48 for identification.

MR. LAND: I am clipping them together and I will put them in my briefcase.

THE COURT: The Court has already indicated that it trusts its officers and there is no reason for you to add anything. I don't care where you put them as long as you bring them back. Put them in your hip pocket, except it seems to be stuffed with what looks suspiciously like a bottle, but it is all right.

You can move to strike the Court's remarks on the ground it is not factually reported.

MR. LAND: Maybe it is.

THE COURT: Let it stand then. Put "laughter" in the record at a mere attempt by the Court to create a bit of laughter to break up the tension, which is constantly present by the way.

4pm

Q Who is Mr. Mullen?

MR. MORRIS: May the record show it is M-o-l-l-e-n, Mr. Mollen.

THE COURT: All right, you are challenged as to your reading. Which document is that?

MR. LAND: Plaintiffs' 56 for identificatio only.

Is that a "U" or an "O" on top?

THE WITNESS: U.

Q Who is Mr. Mullen?

A There are two Mullens. The Mullen referred to here is an assistant to the Deputy Commissioner Coniglione of the management division.

Q '72, is that your handwriting?

A Yes.

Q You put that on as you came on the witness stand, didn't you?

A No. I have been here two days already. I put that on about two days ago.

Q Through what agency did you hire your guard at Leader House?

A The guard at Leader House works for Royal Detective.

Q Does he do detective work in the apartment

building?

A He is a guard.

Q Does he do detective work?

A No, I wouldn't call it detective work.

Q Would it be fair to say he does the same function as a doorman except that he is a little more perceptive with watching criminals?

A I would say he dresses in a guard uniform and he perhaps puts people in a little more awe of his position.

Q How does he do that?

A Just being dressed in a police type uniform.

Q I have seen your guards at Leader House or your doormen at other buildings and they have uniforms, do they not?

A No. The doormen have doormen uniforms in buildings where we have doormen.

Q Aren't those uniforms dark blue?

A I don't recall the exact color of the uniform. I am thinking of Tower West uniform. We have guards at New Amsterdam from the guard service and we have this one guard at Leader House now.

Q About the uniforms, though, the uniforms that the doormen wear, they are of dark color, are they not?

A Which building are you talking about?

Q In which buildings do you have doormen?

A We have doormen at Leader House and we have doormen at Tower West.

Q Describe the uniforms the doormen wear at those two houses?

A I don't know whether it is green or blue. I remember picking the color to be the same for all the buildings there so that in case one doorman left you could use it in another building or something.

Q Assuming he was the same size?

A Right.

Q The doormen also wear a hat, do they not?

A A doorman hat, right.

Q Which is somewhat analogous to a policeman's hat, is that right?

A No, a doorman hat.

Q A flat hat with corners on the side around the perimeter?

A It is a standard doorman's hat. It doesn't look like a police hat.

Q But it is flat on the top, is it not?

A I believe so, yes.

Q And on the perimeter, on the horizontal perimeter, it has several points, does it not?

A I don't recall what the hat looks like. I believe it is a cap with a brim which could be similar to a police hat except it doesn't have a badge.

Q It doesn't have a badge but it is similar to a police hat, isn't it, the doorman's hat?

A I could be similar, yes.

Q Do your guards carry weapons?

A No.

Q You don't know, did you say?

A I said no, they do not.

Q The guard who replaces the doorman during the evening hours at Leader House, does he have any additional duties to perform which the doorman did not perform?

A No. He performs the same duty as the doorman.

Q Do you pay the same for the doorman as you do for the guard?

A No.

Q Which one do you pay more?

A The doorman.

Q So it is cheaper to have a guard, isn't it?

A That's right.

Q Mr. Olnek, have you ever received complaints

that your management company is harassing people of low income living in your apartments?

A Yes.

Q Frequently?

A Only as often as I meet with the Strycker's Bay neighborhood counsel.

Q Don't you receive written letters from low income people and their representatives complaining to you that you and your people are harassing persons of low income?

A We generally -- I don't recall any number of complaints.

Q You don't?

A No.

Q What do you do when complaints are made to you by persons of low income? Do you take efforts to resolve the dispute?

A Generally we don't differentiate between low income or high income. We treat them all the same.

Q Do you know of any discriminatory or disparaging remarks made about welfare tenants of the three buildings in which you testified?

A We know of no discriminatory remarks that were made, although we received a request from the

Strycker's Bay neighborhood counsel which we complied with to send a letter to each of the superintendents, and we sent a copy of the letter to Strycker's Bay, telling them to -- instructing them and their employees to be certain to treat all low income people without discrimination.

MR. LAND: May I have just a moment, if your Honor please?

THE COURT: Yes, sir.

(Pause)

Q Mr. Olnek, as to the other buildings which you manage not in the West Side Urban Renewal area, have you had occasion in respect to those buildings to see graffiti on the walls?

A Yes.

Q And in respect to those buildings, have you had an occasion to see painting in the hallways?

A Yes.

Q And have you had occasion to see dog defecation in the stairwells?

A Yes.

Q And have you had occasion to see an excessive number of people coming into the building?

A No.

MR. LAND: I have no further questions, your Honor.

THE COURT: Mr. Gold.

CROSS EXAMINATION

BY MR. GOLD:

Q Mr. Olnek, you I think mentioned that Hatchton Management Company has a relationship to Starrett Bros. and Eken. Could you tell me what that is again?

A Actually, Starrett Housing Corporation, which is a public corporation on the American Stock Exchange, the chairman of Starrett Housing Corporation is a partner in Hatchton Management Company.

Q Would you say Hatchton Management is the management arm of Starrett Housing?

A We manage a number of buildings of Starrett Housing, although Starrett Housing has its own management company, too.

Q In the West Side Urban Renewal area you manage just Tower West, New Amsterdam and Leader House; is that correct?

A Yes.

Q And, therefore, you are fairly recent to the area in terms of management, is that correct?

A No. We had at 96th Street and Broadway

since I was a child a commercial taxpayer, two story commercial taxpayer on the southwest corner of 96th and Broadway, 2555 Broadway, and we had that -- that was in my family since the time I was born in 1924 until it was destroyed by fire until 1966. So I am acquainted with the west side area.

Q 96th and Broadway?

A Right.

Q You say you knew that since you were a child?

A Right.

Q You then have a family relationship to Starrett Bros. and Eken, do you?

A My brother is the chairman of Starrett Housing Corporation.

Q I see. Then let me put it this way: Your introduction to Mitchell-Lama management in the West Side Urban Renewal area is fairly recent, is that correct?

A Well, it dates from the first building, the New Amsterdam. 1971, I would say.

Q New Amsterdam was occupied you say in 1971, is that correct?

A Probably December, 1970, the beginning of 1971.

Q Mr. Olnek, I show you Defendant's Exhibit S and ask you to find New Amsterdam, Leader and Tower West

and tell me which date they were occupied.

A This schedule says New Amsterdam was October, 1972.

Q Yes.

A That's not correct.

Q That's not correct?

A No. Tower West October, '72. It was at approximately the same time as New Amsterdam, which I believe was December, '71.

Q And Leader?

A Leader House here, it says August, '72. That would be correct.

Q This is a document, I might add, sir, that has been agreed upon by the parties as to its accuracy in terms of the items therein.

THE COURT: Despite that, do you insist on your position?

THE WITNESS: Yes, correct.

THE COURT: There it is.

MR. MORRIS: May the record show we were interested in the statistics shown by that schedule and not by the starting dates of the opening of the buildings.

THE COURT: Very good.

MR. MORRIS: May the record also show that

the opening of the building is sometimes a matter that takes six months to a year to accomplish and therefore to fix a precise date is extremely difficult.

THE COURT: All right. Next question.

MR. GOLD: Your Honor, I think I might also state for the record at least on behalf of the defendants it was our understanding when we stipulated to these many pages we stipulated to everything that was in those pages.

THE COURT: I thought so.

MR. GOLD: Thank you.

THE COURT: I thought so. Let's proceed. But you have a perfect right to put the question to the witness. I show you a paper and I tell you it has been stipulated to by the parties. Do you still maintain, et cetera, et cetera.

That was perfectly proper and you got his answer. He says you are wrong in two out of the three.

Q Now, in connection with the meeting, Mr. Olnek -- well, the series of meetings you testified to with particularly Commissioner Coniglione and several people from the Strycker's Bay neighborhood counsel, representatives of the Housing Authority and yourself, was anyone else there on behalf of HDA except Commissioner

Coniglione?

A Stanley Mollen was there?

A Stanley Lollen?

A Yes.

Q Anyone else?

A Yes. There was the representative of the relocation office in the 96th Street area. There is also a representative of the relocation area there, the local relocation office.

Q And at these meetings you generally discussed the beginning of rent up for the projects?

A Correct.

Q And that is true about Tower West, New Amsterdam and Leader House, is that correct?

A Correct.

Q So the substance of the meetings were more or less the same, were they not?

A Yes, I would say yes.

Q You testified with respect to the New Amsterdam that you traded units with Strycker's Bay, is that correct?

A Yes, that's right.

Q Sort of a monopoly kind of thing?

A It was a horse trade.

Q Horse trade. Okay. Could you explain that a little bit?

A Well, Strycker's Bay had at that time considerable influence with the Housing and Development Administration and therefore - -

MR. GOLD: Your Honor, I move to strike that particular phrase.

THE COURT: You asked him to explain.

MR. GOLD: That is not responsive.

THE COURT: No, I am afraid I have to disagree with you when you put a question like that. It is general and it invites him to proceed in a fasnion he did.

The question is withdrawn. Now put your question more specifically if you do not want to give him that broad scope.

Q Mr. Olnek, in connection with the New Amsterdam House, at your initial meeting with HDA concerning the rent up, how many units in the building were allocated to middle income occupancy?

A At the original start -- could I just make a computation on this?

Q Sure, go ahead.

A 68 apartments were allotted to public housing

and the balance of the 128 apartments, rental apartments, which would be 160, would be middle income.

Q Did it remain that way?

A No. As a result of the trade I mentioned, we gave up -- we turned over to them 30 percent of the -- pardon me. They gave back to us 30 percent of the studios, which would be 15 studios, and about 15 one-bedrooms, and I in turn gave them some larger apartments so that they ended up at the end -- originally they were supposed to have 68 studio, one-bedroom, two bedroom and three bedrooms. They ended up with a grand total of 52 apartments composed of 29 two-bedrooms and 23 three-bedrooms.

Q No zero bedrooms, no one-bedroom?

A Right.

Q 52 units then in New Amsterdam are leased public housing, is that correct?

A Right.

Q Okay. And in the Mitchell-Lama portion of New Amsterdam the rental is fair market rental, is that correct?

Q The middle income portion other than the leased public housing?

A Right.

MR. MORRIS: Just a moment. Are you asking about the Skction 236 rentals or the Mitchell-Lama?

MR. GOLD: I asked a question.

MR. MORRIS: I didn't hear your question as to whether you limited it to 236 or --

THE COURT: Can't we make progress here. Just answer his question. If it escaped him, forgive him. He has to forgive you, too.

MR. GOLD: I am sorry.

THE COURT: Enlighten him.

MR. GOLD: I asked whether the rental in the 70 percent middle income portion of New Amsterdam was fair market rental.

THE COURT: All right. Now, Mr. Morris, you have it.

What is your answer?

THE WITNESS: Yes.

THE COURT: Next question.

Q With respect to Tower West, Mr. Olnek, how many units were allocated for leased public housing?

A 60.

Q 60 units out of how many?

A 217, including the superintendent's apartment.

Q And in the middle income or non-leased

of The New Amsterdam. I believe you testified that at

public housing portion is fair market rental charged?

A Yes.

Q With respect to Leader House, how many units are allocated to leased public housing?

A 60 leased -- pardon me. Leader House. Iwas thinking of Tower West. You have my notes there.

THE COURT: Give him back what he needs in order to testify.

THE WITNESS: I think it is in the briefcase now.

MR. GOLD: Do we have those?

THE COURT: Those you turned over to Mr. Land.

(Document handed to witness)

A The leased public housing, Leader House, there are 84 apartments that are public housing.

Q Do you know how that breaks down, Mr. Olnek, in terms of the size of the units?

A There are 9 one-bedrooms, 50 two-bedrooms and 25 three-bedrooms.

Q Is a three-bedroom apartment a unit that would be considered a total of 6-1/2 rooms?

A It is so considered by the Housing Development Administration. A three-bedroom with a terrace is counted

Renewal area?

6-1/2 rooms.

Q And those are usually for larger families, is that correct?

A Yes.

Q In the 84 leased public housing units, are there any of those occupied by the elderly?

A From my records here, I do not -- I am not able to answer the question. However, I can state that those people in the three-bedroom apartments and those people in the two-bedroom apartments of the public housing would have younger people in them if in fact there are some elderly people in the apartments. It would perhaps be in the one-bedroom apartments that you might have elderly people, but I don't know.

Q It is possible, then, that out of the 84, particularly in the smaller apartments, that there are elderly people occupying those apartments?

A In those 9 apartments, yes.

Q But you don't know of your own knowledge?

A I don't know, no.

Q Is it possible that some of those elderly might also be elderly on welfare?

A It is possible they could be on welfare, yes.

which leaves perhaps 190 of these smaller units?

A Correct.

Q Suitable for the elderly, correct?

A It could be suitable for the elderly, yes.

Q Not suitable, sir, for large families, is that correct?

A There is a maximum number permitted in tne bedroom of two people.

THE COURT: So your answer clearly is no. Why do you go into a long-winded answer. He asked -- Mr. Olnek, listen to the question.

THE WITNESS: The answer to the question --

THE COURT: That wasn't intended for a large family, was it? How could a large family occupy it?

THE WITNESS: The question wasn't that, the question was whether it was suitable for the elderly and the elderly -- I don't know how many people are in the elderly person's family.

THE COURT: Read the last question, Mr. Wolf. Maybe it escaped me.

Spend enough time to find it.

(Record read)

THE COURT: Why couldn't you answer that? It is not suitable, is that right?

THE WITNESS: Right.

THE COURT: It is not suitable for larger families. All right.

Q Most of the building, Mr. Olnek, is occupied by husband and wife type of occupancies, is that correct?

A I don't know in terms of quantity of persons.

Q Most of the units?

A Most of the units are occupied by small families, right.

Q Mr. Olnek, is there a 236 contract presently in effect with the federal government for Leader House?

A A 236 contract was submitted to the federal government but not received back by the City for Leader House. So as of this date there is no 236 contract in existence as far as we know.

Q Do you get paid the same amount of rental that you would if there was a 236 contract in existence, sir?

A Well, the building itself in effect gets the same amount -- the same amount of net income but not the same amount of gross income.

Q I see. Are you making a profit on the management of Leader House?

A From a management point of view, we get income from the operation of Leader House.

THE COURT: He didn't ask you that, whether you get income.

A Per se, I would say no.

THE COURT: The answer is no.

THE WITNESS: Combined with our income from other buildings --

THE COURT: He asked you about Leader House. How about that?

THE WITNESS: I have never made a breakdown.

THE COURT: There is the answer.

Around 5:30, we will adjourn until that hour. I hope I don't have to keep you waiting.

(Recess)

THE COURT: Well, gentlemen, it was a very, very sad proceeding I come from in honor of preceding Justice Botein and his great contribution not only to the City and State, but nation, as a judicial officer and as a great administrator, a wonderful friend.

His son spoke, one of the most moving addresses I have ever listened to. His son is now a professor. I could not get away. I am sorry I am a little late. I grabbed the subway and ran and here I am at six o'clock. I would like to see you do likewise.

Proceed.

CROSS-EXAMINATION (continued)

BY MR. GOLD:

Q Mr. Olnek, you testified in December of '71 that you were involved in a meeting in connection particularly with Leader House and its renter and that the same people generally were at the meeting as in the prior meetings you had in connection with Tower West and the other Mitchell-Lamas that you managed.

A Yes.

Q Who was there representing the Housing Authority?

A John Cullen, I think.

Q You said this was represented to be at that time a 100 per cent 236 building.

A Leader House, yes, 236 financing, 100 per cent.

Q You undertook the management of that building knowing it would be a 100 per cent 236 financing?

A Yes.

Q I think you said that at the meeting there was discussion about the units in Leader House being given to relocatees who had a priority, is that correct?

A Yes.

Q Was that allthe units they were talking about in the building?

A Well, first, after setting aside -- they were talking about the 70 per cent of the apartments. Also they were talking about priority for relocatees with respect to the 30 per cent public housing. So they were talking about relocatees, yes, to all parts of the building.

Q Did they speak about welfare at that meeting in particular?

A I don't recall the welfare issue being raised.

Q Was this Commissioner Coniglione who told you not to do certain things or to do certain things?

A I received instructions from him in response -- it was sort of a request by the Strycker's Bay, they wanted certain things done and he went along with the way they wanted it done.

Q When you say that, you were dealing as a managing agent with HDA, were you not?

A We were dealing as managing agent with HDA, however Strycker's Bay played a part throughout the renting of Leader House in the handling of the renting.

Q What I am particularly concerned with is anything that the Commissioner said at that meeting. Focus on that, if you can. Did he tell you at any time that you were not to process applications?

A We were not to -- we were to handle applications but not to send any applications except relocatees down until further notice.

Q Do you know where?

A We were told to send them first to the 92nd Street West Side Relocation area where they were to be looked over and then sent down to the Housing Development Administration.

Q Did you partake personally in the processing of the applications for Leader House?

A I myself did not directly handle it although I gave instructions for the handling of it.

Q You are familiar with the procedure then?

A Yes.

Q When you say "processing," does that mean a

tenant comes in to your rental office at the site and fills out an application?

A Well, the process -- I mean by processing, the entire handling of the application, from the taking of the application, to the submission of the application to the Housing and Development Administration.

Q Do you play any role in reviewing the application?

A Well, I could --

THE C URT: Do you play a role? That is all he asked.

A I don't recall playing a role in any particular person's application.

THE COURT: Next question.

THE WITNESS: I think there was one application I played a role in.

Q You then got these applications, and sent them down to the 96th Street relocation office, is that correct?

A Yes.

Q What happened then?

A They looked them over, approved them, and send them to the Housing and Development Administration.

Q Downtown, at the main office?

A Yes.

Q What happened then?

A Upon receipt of the approval by the Housing Development Administration the lease would be typed up by our office, people on our staff.

Q So that at the time you began typing up and preparing the leases for the various tenants that had been approved, you did not know who was on welfare and who was not on welfare, is that correct?

A We received applications from the people which would indicate the source of their income.

Q Did you make a calculation as to which persons were on welfare or which were not?

A At the very beginning we did not make such a calculation, although we became aware of the number of welfare applications that were being forwarded to the Housing Administration and we expressed our concern to the Commissioner.

Q To Commissioner Coniglione?

A Yes.

Q Did he respond in any way?

A I didn't get any definite action, no.

Q Did you express that concern in writing to the Commissioner?

A No.

Q You did not?

A No.

Q You ended up, you said, with 56 welfare relocatee persons?

A 56 welfare persons most of whom were relocatees. There were a few who were West Side people on welfare.

Q I don't understand that. Relocatee persons are not persons presently living in the West Side?

A Relocatee persons could be persons on welfare or not on welfare, but they would be persons who had been supposedly relocated by the city.

If you notice that instruction that we received, they also were taking relocatees from other areas besides the West Side.

Q These people that you processed or whose applications you processed and ultimately approved were certified by HDA?

A We put down an approval on the application.

Q That calls for a yes or no answer.

Were the applications that you processed and then approved certified persons to occupy Leader House?

A They were approved persons to occupy Leader House approved by the HDA.

Q When you say you ended up the initial rent up with 56 welfare relocatee persons, you are not talking about

families, are you?

A I am talking 56 families.

Q Families?

THE COURT: That is what he testified to on direct, 56 families.

Q Has that number changed any since the initial rental?

A Yes.

Q Has it been reduced?

A Yes.

Q To what extent?

A There are now 49 welfare families living in the 70 per cent of the apartments that are not occupied by public housing.

Q In other words, in the units not leased by the Housing Authority?

A Right.

Q 49 families, reduced from 56?

A That's right.

Q That is at this moment?

A Yes.

Q In connection with Mr. Kerr's memorandum, which is Plaintiffs' Exhibit 54, you are familiar with that?

A Yes.

Q Have you adhered to the instructions in that memorandum?

A Yes.

Q How have you done that, sir? Suppose an apartment that houses a welfare family in the 70 per cent grouping in Leader House should become empty, what do you do?

A It is rerented to a person who is not on welfare.

Q That would be in accordance with that Plaintiffs' Exhibit 54?

A That's right, correct.

Q So you, along with the city, would you say, are making an effort to reduce the number of welfare families that were in the 70 per cent grouping?

A Yes.

THE COURT: You pushed one over fast "along with the city." I don't intend to have his presentation of what the city's standing is.

Read the question, Mr. Reporter.

(Question read.)

THE COURT: Do you still want to say yes?

THE WITNESS: Yes.

Q Are you being paid to testify here today?

A No.

Q Is this part of your duties as a managing agent

for Hampton?

A It is a professional courtesy.

Q Professional courtesy? Is that to Mr. Morris?

A Yes.

Q Does Mr. Morris represent or does his law firm represent any of the three housing companies you are managing in the West Side Urban Renewal area?

A Not at present, no.

? Has he at any time represent ed --

A Previously.

Q You also said that you personally see these three sites four times a year, or every three months.

A I think it was about every other month.

Q You make a visit, make the rounds, of the three sites?

A That's correct.

Q You see them maybe six times a year?

A Right.

MR. GOLD: I have nothing else, thank you.

CROSS-EXAMINATION

BY MR. DOUW:

Q Mr. Olnek, I would like to turn to the meeting which you had in early 1971 with Commissioner Coniglione and representatives of Strycker's Bay concerning the tenanting

of The New Amsterdam. I believe you testified that at that meeting --

MR. MORRIS: The record will show that that was late in 1971 and not early, I think.

THE COURT: The witness is encouraging him by saying yes.

MR. MORRIS: The witness didn't answer. He didn't say yes or no. Ths was a statement. That was not a question.

THE COURT: Let's see.

Q I believe you testified as to the meeting of the tenanting of the New Amsterdam that the representatives of Strycker's Bay wanted relocatees to be offered apartments first before they were offered to the general public and the Commissioner concurred in that requirement.

THE COURT: Is that so?

THE WITNESS: Yes.

THE COURT: When did that take place again?

THE WITNESS: Early 1971.

Q Where did it take place?

A At the Commissioner's office, 100 Gold Street.

Q Was there any discussion at that meeting, Mr. Olnek, about the relevant regulations of any Governmental agency with regard to the renting to relocatees in an Urban

Renewal area?

A It was cited, yes. There was a discussion.

Q Regulations were cited?

A Strycker's Bay pointed out the obligation of the city to take relocatees.

Q Was that obligation in the regulations?

A I didn't read anything -- it was not presented to me in writing.

Q Did anyone say they were regulations?

A There was reference --

THE COURT: Did anyone say they were regulations?

THE WITNESS: There was reference to rules or regulations or something, but I didn't see that.

THE COURT: You can't testify on that score.

THE WITNESS: No, I can't.

Q Did Commissioner Coniglione mention anything about HDA regulations or any regulations governing relocatees, if you recall?

A The Commissioner talked about regulations. Now that you mention the point, I remember getting from the city not only with respect to these buildings but with respect to other middle income building priority rules about relocatees coming first, letters saying relocatees come first.

Q When did you receive the material you speak of?

A I might have received this a couple of years prior to the renting of the West Side building.

Q Was it at that same meeting, the meeting concerning New Amsterdam, that you discussed the applications that were forwarded first to the 96th Street office and then downtown to HDA?

A We discussed at these meetings primarily the entire procedure rather than -- we didn't talk about applications that were in process or going down. We talked about primarily what we were not allowed to send down.

Q I don't understand. What do you mean by that?

A Our renting was being held up while they were looking for relocatees. Actually, as it turned out, we did not obtain any relocatees to speak of for the 70 per cent of the apartments of the New Amsterdam or Tower West because of the fair market rents. The entire process of renting the building was held up while they were looking for relocatees of an income bracket to pay the rents and those relocatees didn't exist.

Q The meeting I have been asking you about in early 1971 concerning New Amsterdam, did that also deal with Tower West?

A Yes.

Q What is the office in 96th Street that you speak

of?

A This was the West Side Urban Renewal office. I think it was on Columbus Avenue, around 95th Street or thereabouts.

Q 95th or 96th?

A In that area. I was there a couple of times. I forget the exact address. It might even be on Amsterdam Avenue. I am not sure.

Q Is that an office which deals with all kinds of applications for apartments in the Urban Renewal area or just with respect to relocatee applications?

A I don't know.

Q Do you know what the procedures are for processing applications for tenants for leased public housing units regardless of whether those tenants would be relocatees or not?

A I know only the aspect that we handle as a management company. I am not aware of how it was handled by the New York City Housing Authority.

Q Mr. Olnek, I would like to turn to the meeting which you testified to when you discussed the renting of Leader House. Could you give us again what the approximate date of that meeting was?

A Well, actually, there was a series of meetings. There was not one meeting. The first meeting, I believe,

was in December of 1971.

Q There were several meetings after that?

A Several meetings thereafter into, I believe, June of 1972.

Q I believe you testified as to the tenanting of Leader House. Strycker's Bay wanted the larger apartments for relocatees, is that correct?

A Yes.

Q And HDA concurred in that requirement, according to your testimony?

A We concurred and HDA concurred, right.

Q Who represented HDA at those meetings?

A Commissioner Coniglione was generally at all the meetings except I think on one or two occasions he might have had Stanley Mullin sit in for him.

Q Did either of those two talk about the so-called relocation work load, that is the number of people on a relocation list?

A That information was not by them but by an assistant in the West Side office, he would discuss the numbe of relocatees.

Q Was this assistant at these meetings?

A Yes.

Q That assistant was an employee of HDA?

A That's right.

Q What did that assistant tell you about the relocation work load?

A The discussion was mentioned about what letters he had sent out and what additional letters Strycker's Bay wanted him to send out to contact all possible relocatees.

Q Did this assistant or any representative of HDA in any of these meetings discuss with you that the larger apartments were required in order to house the relocatee families?

A The request came not from the assistant but from the Strycker's Bay Neighborhood Council for the large apartments.

Q My question is, did any representative of HDA say to you in any of these meetings that the larger apartments were required in order to house the relocatee families?

A No.

Q You also mentioned that because the larger apartments are given over to leased public housing that you have calculated that 41 per cent of the rooms are devoted to leased public housing, is that correct?

A Yes.

Q And 44 per cent of the people are in leased public housing units, is that correct?

A 44 per cent of the people in the building, correct, are in --

Q Could you tell us how you arrived at this calculation?

A As I indicated, this was just an estimated based on setting a certain number of people for each size apartment. It is not an accurate -- in other words, as I indicated, a studio or one bedroom, I calculated that to be one or two people, so I figured one and a half. However, for a more accurate way to compute it would be to go through every application and add up the number of people on each application. But for my own purposes at one time, this was a long time ago, I made -- I multiplied the number of public housing apartments times this quantity of persons for each size of it, and then I multiplied the entire breakdown of the building times the same number of people for each particular size apartment, and I divided the two and I got this 44 per cent.

Inasmuch as they were taking more of the bedrooms-- you get 44 of the people although they have only 41 per cent of the rental rooms.

Q The meetings at HDA concerning the tenancy of Leader House, was there any other representative of your company there with you?

A There was Barbara Tillman who was there -- a few times Barbara Tillman was there. On one or two occasions Robert Olnek was there.

Q Is that your brother?

A Yes. I think that would be about it. Most of the time it was Barbara Tillman and myself at the meetings.

Q Did your brother express any opinion at these meetings as to which apartments should go to leased public housing units or to relocatees, if you recall?

A Well, he didn't express an opinion. He agreed to the -- the request was made at a meeting by Strycker's Bay at perhaps the very first meeting or the second meeting about getting the bigger apartments, and he agreed to go along with their request. So that is why they ended up with the bigger apartments.

Q He agreed to that?

A Yes, he agreed to it.

Q And you agreed to it?

A I was just watching.

Q You were just watching?

A That's right.

Q I see.

Q You testified, Mr. Olnek, that most of the buildings which you manage are in New York City, is that correct?

A Yes.

Q The ones that are not in New York City, where are they located?

A In New Jersey and Connecticut and Massachusetts.

Q How many buildings in total do you manage in New York City?

THE COURT: Do you mean the witness personally or do you mean his company?

MR. DOUW: His company.

THE COURT: Then say so.

A In terms of --

THE COURT: That calls for a number.

THE WITNESS: I am sorry. I would have to start counting on my fingers or something.

THE COURT: Approximately how many?

THE WITNESS: Approximately 30.

THE COURT: Next question, Mr. Douw.

Q And the office that you have in Riverdale, is that the only office that you have in New York City?

A No, we have another office in Coney Island.

Q How large is your staff combined in the Riverdale and Coney Island office?

A About 40 people.

Q Does each building have a building manager that is managed by your company?

A Yes.

Q Who is the building manager of Leader House? Is that Barbara Tillman?

A Yes.

Q Can you tell us what her experience was prior to her joining your staff with Leader House?

A Well, she had previous to becoming managing agent for the building had rented the building and - -

Q At Leader House?

A At Leader House. And she had also rented Tower West and New Amsterdam and she had also lived in the 98th Street area.

Q Prior to her job as rental agent at those three buildings, what did she do?

A She had been in public relations, television, She had worked in advertising.

Q Did she have any prior experience in real estate?

A None other than what she learned from our company.

Q The superintendent at Leader House, Mr. Sifonne, he is no longer the superintendent there, is that correct?

A That's correct.

Q Prior to his working in Leader House, was he in your employ?

A Yes.

Q Where did he work?

A He work in the Bronx at Carroll Gardens.

Q Was he a superintendent there?

A Yes.

Q How long ago did he leave Leader House?

A I estimate about two months ago.

Q Is he still in your employ?

A Yes.

Q Where is he working now?

A In New Jersey, in Jersey City.

Q As a superintendent?

A Yes.

Q When he was transferred -- let me ask you this: Why was he transferred from the Bronx building to Leader House?

A He came in and requested to be shifted to Manhattan.

Q What were the reasons for that request?

A I believe the pay is higher in Manhattan under the Manhattan union. I don't recall the circumstances.

Q Why was he transferred to the New Jersey building which you manage?

A Well, he spoke to me a number of times and he was concerned about his children in the Leader House building area and he wanted to get them out of there.

Q Did he get an increase of pay when he was transferred to New Jersey?

A A small increase, about $6 or something.

Q $6 a week?

A A week, yes.

Q Mr. Olnek, was there ever an occasion at Leader House when Mr. Sifonne or any superintendent collected the rent?

A No. I might qualify that.

Q Please.

A All rent payments are made directly by tenants to the Bank of New York. However, in the event of a dispossession proceeding it might be that a check might

be turned over when the marshal is at the door of the tenant to the superintendent, but the superintendent otherwise would not be in the rent collection business.

Q So it would only be at a court appearance that would be the exception to the rule?

A Not a court appearance. If an emergency happened right at the building, it might be that the marshal might turn the money over to the superintendent, but otherwise the superintendent would never touch any money.

Q Did you attend a meeting at a location in the West Side Urban Renewal area called the West Side Legislative Center on March 28, 1964?

A Yes.

Q What was the purpose of that meeting?

A It was a meeting that had been requested by Strycker's Bay and in conjunction with the tenants committees of Tower West, Leader House and New Amsterdam to go over the operation of the three buildings.

MR. MORRIS: I think counsel said 1964.

THE COURT: He did.

MR. MORRIS: I take it he meant 1974.

MR. DOUW: I beg your pardon. I mean this year, 1974.

Q How many people were at that meeting?

A I would estimate maybe 40 people.

Q Were there representatives of the tenants at Leader House?

A Yes.

Q Of Tower West?

A Yes.

Q Of New Amsterdam?

A Yes.

Q Was there a representative of Strycker's Bay there?

A Yes.

Q Was there a representative from Congressman Rangel's office there, if you know?

A I don't recall. However, I arrived about an hour after the meeting was started. So he might have been there and gone.

THE COURT: I have to step in sometime. That entire answer is stricken as non-responsive.

Put the question, Mr. Court Reporter.

(Question read)

THE COURT: Please answer directly.

A Not while I was there.

THE COURT: Next question.

Q Were there any representatives there representing any other legislator?

A Not while I was there.

Q Was Commissioner Coniglione there?

A Yes.

Q How long did the meeting last?

A Several hours.

Q And you were about an hour late?

A Yes.

Q And you were there several hours after that?

A A couple of hours after that.

Q Were there complaints at that meeting that your management, your company, put through illegal rent increases for 236 units in the three buildings that you manage in the Urban Renewal area?

A There were complaints that supposedly we had not processed 236 applications correctly or something to that effect.

THE COURT: Will you please repeat the question put by Mr. Doud, Mr. Court Reporter, and will you listen to it, Mr. Witness.

(Question read)

THE COURT: That's a very clear question. What is your answer? Were there such complaints, yes or

no?

THE WITNESS: There may have been.

THE COURT: Were you there?

THE WITNESS: I was there, but there were a number of different complaints raised and I don't recall exactly what complaint was what.

THE COURT: Next question.

Q Do you recall if Commissioner Coniglione expressed himself to you about any rental increases of any kind?

A Commissioner Coniglione asked --

THE COURT: No, I am going to insist you answer the question. You spoke about coming down here because of your friendship for Mr. Morris. In my book, you are just like any other witness. You could have been subpoenaed to appear but I suppose as a courtesy to you he did not subpoena you.

Now please do not extend unnecessarily the lengtn of this proceeding. Answer the question that is put to you and that's what you are here for and do not make extended remarks.

Now, will you try to do that, please?

THE WITNESS: Yes.

THE COURT: What is the pending question,

Mr. Court Reporter?

(Question read)

THE COURT: Do you so recall? If you do, say so. If you don't, say so.

A He expressed himself, yes.

Q What did he say?

A He asked me whether we were processing the 236 recertifications. When I say recertifications, these are the federal -- the increases in rent goes to the federal government.

THE COURT: What did he say to you? Don't go into an explanation every time, will you?

A He asked me whether we were handling it correctly and I said we were handling it correctly, and he in turn promised and said in my presence that he would send someone around to our office to check to see if everything was being handled in accordance with federal procedures, which was done.

THE COURT: Next question.

Q So he did send a representative to your office?

A That's correct.

Q What was the outcome?

A They said we were doing it exactly correct.

THE COURT: Next question.

Q Were there any complaints expressed to you at that meeting about the security in any of the buildings that you manage in the Urban Renewal area?

A Yes.

Q What were the nature of those complaints?

A The nature of the complaints were the tenants were concerned about the people -- the doormen or guards not stopping people coming into the building, visitors coming into the building.

Q Were there any complaints that there had been a number of muggings in your buildings?

A Yes.

Q Was there a complaint that there had been a rape in one of the buildings you manage?

A I don't recall that.

THE COURT: At any of those meetings that you have mentioned, was there any talk about prostitution and men coming into the buildings for that purpose?

THE WITNESS: I don't recall that either.

THE COURT: Next question.

Q Were there complaints about muggings in your buildings made in connection with the charge that there was a lack of security in your buildings?

A I believe the complaint about muggings was with respect to muggings outside the building, not within the building.

MR. DOUW: May I have this marked for identification, please?

(Defendants' Exhibit U was marked for identification)

Q Mr. Olnek, I show you a copy of a letter dated April 2, 1974, written on the letterhead of the West Side Legislative Service Center. There is no signature on this letter but it appears to be from Mr. Rangel, Mr. Ohrenstein, Mr. Blumenthal and Mr. Weiss.

I would like to show it to you and ask if you remember receiving that letter?

A Yes.

MR. DOUW: I offer it in evidence.

THE COURT: Show it to your opponent.

MR. MORRIS: I have seen it. I have no objection.

THE COURT: Mark it in evidence, Mr. Clerk.

(Defendants' Exhibit U was received in evidence)

Q Mr. Olnek, Defendants' Exhibit U, is this a letter that was written by these legislators to you as

an outcome of the meeting on March 28th?

A Yes.

Q And in this letter did they not ask for a written reply point by point as to certain items and issues raised at that meeting?

A Yes.

Q And have you responded to that request?

A Yes.

Q You have?

A Yes.

Q Is there a call for a further meeting about your management practices in this letter?

A Well, there is a scheduled meeting on May 14.

Q And they request that you be present at that meeting, is that correct, according to Exhibit U?

A Right.

MR. DOUW: No further questions.

THE COURT: Mr. Morris, any redirect?

MR. MORRIS: Yes.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q Would you explain to the Court the difference between the income limits under 236 in Leader House and the income limits in today's public housing at the

present time?

MR. LAND: Your Honor, I think that would be a matter of law rather than the witness' testimony.

THE COURT: I would like to have it both ways. I would like to hear his testimony on it and then I will interpret it according to what you maintain is or is not the applicable law. Go on.

A The present public housing income limits are approximately $500 less than the income --

Q Is that $500 a year?

A A year less than the income limits under which we rented Leader House for 236.

Q Now, Mr. Olnek, you testified to certain other buildings that you manage which have problems with respect to garbage and noise and dirt and so forth.

Would you tell us where those other buildings are located?

A Those buildings are in the East Bronx, they are middle income buildings with capital grant tenants.

THE COURT: You see, you were asked where they were located and then we get the financial structure.

THE WITNESS: I am sorry.

THE COURT: You want to know why the Judge is impatient. It is ten of 7:00 almost. I came back

here. I want to get some testimony in, not this kind of thing. Come on.

Q You testified that they were located where -- in the South Bronx?

A In the East Bronx.

Q East Bronx?

A Yes. South Bronx.

THE COURT: Next question.

Q With respect to the doormen, did you get a request from tenants regarding doormen and where they should stand or patrol the building?

A Yes.

Q Would you tell us what that was?

A Well, the tenants of Leader House wanted us to put the doorman between the two doors leading into the building, that is, there is an outside door that leads in and then there is the inside locked door, and they wanted the doorman to stand by the buzzer, which is the usual position actually that a doorman stays in a building.

Q And did you issue instructions to the doormen with respect to that?

A Yes.

Q And what occurred?

A Well, the doormen refused to stay in that position.

Q And where did they insist upon staying?

A They wanted to stay behind the locked door.

Q Did there come a time when you instructed the doormen to screen entrants into the building?

A Yes.

Q Would you tell us what occurred with respect to that?

MR. LAND: If he knows, your Honor.

THE COURT: Yes, of course. You understand, I take it, that you are testifying from knowledge of what is inquired about, having obtained from it those engaged by your company and under your supervision.

THE WITNESS: Yes.

THE COURT: Very well.

A Actually I requested it on two occasions. The first time I requested that a log book be set up in connection with visitors in which the name of each visitor and his address be entered as well as the name of the tenant he was visiting and the apartment number for Leader House. Originally, this was while Sifonne was still there, I made that request to him and he said that the doormen wouldn't do it. I subsequently, under

the new superintendent, made the request and it is being done now.

THE COURT: It was actually being complied with?

THE WITNESS: Yes.

THE COURT: How long has that been going on?

THE WITNESS: I would say two weeks, three weeks.

MR. MORRIS: That is all.

THE COURT: Is there anything on recross?

MR. GOLD: A few questions.

THE COURT: All right, Mr. Gold.

RECROSS EXAMINATION

BY MR. GOLD:

Q Are the 236 exception limits being used in Leader House with reference to determine maximum income?

A No.

Q They are not?

A No.

Q Are they using the basic limits, then?

A They are using 236 under regular 236, which is a lower rate, about $2,000 less than the exception rate.

Q You mentioned before you had no 236 contract,

is that correct?

A That's correct.

Q And you receive, then, each month from each tenant the 236 rent, correct?

A That's correct.

Q And that is lower than fair market rental, is that correct?

A That's correct.

Q What happens to the difference, Mr. Olnek?

A The tenant sends in a certain amoung of rent.

THE COURT: What happens to the difference? Can't you answer that?

Q The subsidy portion.

A The subsidy portion is supposed to be sent by the federal government to the City.

Q Isn't the housing company supposed to receive the fair market value rent?

A No. The federal government is supposed to receive everything above the basic rent collected from tenants.

MR. GOLD: Thank you.

MR. MORRIS: That's all.

THE COURT: Anything from you, Mr. Land?

MR. LAND: No, your Honor.

THE COURT: Mr. Douw?

MR. DOUW: One question, your Honor.

RECROSS EXAMINATION

BY MR. DOUW:

Q You said the new superintendent now has the doormen standing between the two doors.

A No.

Q He has arranged for the doormen signing everybody in, all visitors in?

A Which Mr. Sifonne couldn't do for some reason.

A Which he didn't do.

Q And this has been in effect about two weeks, you say?

A Yes.

Q Was it in response to the meeting of March 28 that this has been done?

A No, it was my own idea.

THE COURT: Did you do that in response to the meeting?

THE WITNESSN: No.

MR. DOUW: Thank you.

THE COURT: Very well. That's all. Step down.

(Witness excused)

MR. MORRIS: Mr. Austin K. Haldenstein.

A U S T I N K . H A L D E N S T E I N ,

called as a witness by plaintiffs, being first duly sworn, testified as follows:

THE COURT: Mr. Haldenstein,you have been in this courtroom long enough to see what belongs here by way of testimony. A lot of people have a tendency to speak here the way they would out in their office or on the street where an explanation, truthful though it may be, may last half an hour. The law says no such thing and the law says the Judge has to pounce on the witness whether counsel does so or not to see to it that the record of the trial is kept within bounds. These records sometimes go up on appeal to the Circuit Court or United States Supreme Court and sometimes they rightfully regard them as abomination. Lawyers do not control the content sometimes, the Judge sits there and doesn't whittle itdown. Everybody just goes in for a talk-fest.

I warn you that I shall cut the proceedings short if my patience is tried unnecessarily. You are here to answer yes or no. When you are asked for an explanation you give the explanation, remembering all of

this is under oath.

THE WITNESS: Yes.

THE COURT: Now, is that so difficult?

THE WITNESS: No.

THE COURT: Proceed.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Haldenstein, what is your occupation?

A I am a real estate broker.

Q And have you also acted as consultant and appraiser in connection with real estate transactions?

A Yes, sir.

Q And have you had any contact with the West Side Urban Renewal area and the West Side generally in connection with these activities?

A Yes, sir, that's --

THE COURT: Yes, sir. Next question.

Q Will you tell us what they were?

A Well, the west side area and the Urban Renewal area is the area where I specialize in.

THE COURT: Over what period of time, Mr. Haldenstein? Just give me a number of years.

THE WITNESS: Approximately ten years.

THE COURT: Next question.

Q What is the name of your firm?

A It is under my name, Austin K. Haldenstein.

Q Is it a sole proprietorship?

A Yes, sir.

Q And do you employ a staff of people to assist you?

A Yes.

Q How many people do you employ?

A Nine sales people at the present time.

Q And where are your offices located?

A 225 Central Park West.

Q When did you locate your office there?

A I moved there October 1, 1973.

Q And where were your offices prior to that time?

A 18 West 86th Street.

Q Now, incidentally, what street is 225 Central Park West at?

A That is 82nd Street and Central Park West.

Q 18 West 86th Street, how close is that to the West Side Urban Renewal area?

A Well, that's one block south.

Q One block to the south of the area. Before you started your own -- when did you start your own real

estate firm?

A The spring of 1971.

Q And before you started that, were you connected with any other firm?

A Yes, I was connected --

Q Just yes.

THE COURT: Next question.

Q Would you tell us what other firm you were connected with?

A Kempner Corporation.

Q And where are they located?

A 60 East 42nd Street.

Q And how long were you connected with them?

A Approximately seven years.

Q You testified that you became active in the West Side Urban Renewal area in or about 1963, is that correct?

A Yes.

Q What did you do before that?

A I was a management consultant working in downtown areas in cities throughout the country, medium size cities and towns.

Q Did you have anything to do with the Urban Renewal program in connection with those activities?

A To a limited degree.

Q Did you have anything to do?

A To some degree, yes.

Q What was the name of the outfit that you worked with prior to your affiliation with the Kempner Corporation?

A National Downtown Services.

Q Where did you work out of in connectionwith that activity?

A East 23rd Street.

Q In Manhattan?

A Yes.

Q Are you connected in any way with the West Side Chamber of Commerce?

A Yes, I am a director of the Chamber.

Q You are on the board of directors?

A Yes.

Q Were you connected in any way with the 86th Street Park Block Association?

A Yes. I was president until December 31, 1973.

Q Are you still connected with them?

A Well, I am in touch with them.

Q Were you registered in any way with Police Departments?

A I am listed -- I am registered as a block watcher.

Q For what area?

A It covers, at this point, 82nd Street, where my office is.

Q Which police precinct is that connected with?

A That is the 20th.

Q 20th Precinct?

A Yes.

Q Have you ever been connected in any way with CONTINUE, one of the plaintiffs in this action?

A Yes, I am a member of CONTINUE.

Q Have you ever participated in the Committee of the Historic District Council?

A Yes.

Q Does that cover activities in connection with

the West Side of Manhattan?

A Yes.

Q Are you a member of the Real Estate Board of New York?

A Yes, sir.

Q Are you a member of any committees for any activities in connection with the real estate board?

A Yes. I am a member of the Housing Projects Committee, the Sales Brokers Committee, the West Side Committee, and the legislative committee of the board.

Q Did you prepare at my request a list of the brokerage transactions in the West Side Urban Renewal area from 1964 to 1973?

A Yes, I did.

MR. MORRIS: I ask that this be marked for identification.

THE COURT: Please mark it.

xxx (Plaintiffs' Exhibit 57 was marked for identification.)

Q I show you Plaintiffs' Exhibit 57 for identification. I ask you if this is a list of the brownstones in the West Side Urban Renewal area in which you participated as a broker?

A Yes, sir.

THE COURT: Did you examine that, Mr. Haldenstein, before you took the stand?

THE WITNESS: Yes, sir.

THE COURT: So you are able to say without further study that that is a list of all the buildings, brownstones, with which you had identification as a broker?

THE WITNESS: Approximately. I might have missed one or two.

Q Did you prepare that list at my request?

A Yes.

Q Would you tell the Court how many properties --

THE COURT: Offer it in evidence.

MR. MORRIS: I offer it in evidence.

THE COURT: 57 for identification is offered in evidence. Any objection?

(Pause.)

THE COURT: The witness stated distinctly he was identified as the broker in connection with each one of those. You have not the problem of acting on something that someone else did and reported to him.

MR. GOLD: No objection.

MR. LAND: No objection.

MR. DOUW: No objection.

THE COURT: Mark it in evidence.

xxx

(Plaintiffs' Exhibit 57 was received in evidence.)

Q How many properties are listed on this schedule, 57 in evidence?

A I think there are 64 here.

Q Are some of them resales so that you were the broker in the original transaction and then in connection with the resales?

A Yes.

Q Tell us which ones were.

A You want me to itemize it?

THE COURT: I should think if you were going to ask that, you knew that in advance, you should have gone over it with him, so when he got on the stand it would take a minute for him to check it off.

MR. MORRIS: It is so identified on the schedule.

THE COURT: Say so.

Q Say so.

THE COURT: Why are you asking him?

MR. MORRIS: I want the Court to know --

THE COURT: Say: Have you already indicated on that schedule resales? The answer is yes.

Give it to me and I will look at it. It does not take me long. Let's have it.

(Pause.)

There it is. Clear as a bell.

MR. MORRIS: That is right.

THE COURT: Resold. What makes you think I can't read?

MR. MORRIS: Frequently your Honor does not take the exhibits and sometimes you do, and I was not sure whether you would or not, and I thought it might be helpful to the Court if he read the five or six that are resales.

THE COURT: Are they vital in connection with the testimony?

MR. MORRIS: They are not that vital but they are significant, that he actually conducted several additional resales of properties as well as the original sale.

THE COURT: That has been established.

MR. MORRIS: That's right.

THE COURT: All right.

Q Are you a licensed real estate broker, Mr. Haldenstein?

A Yes.

Q How long have you been licensed?

A As a broker since approximately 1966, 1967, I believe.

Q Were you licensed as a salesman prior to that

time?

A Yes.

Q And for how long were you licensed as a salesman?

A In 1963 I was licensed, I believe.

Q Would you tell the Court what you did with respect to the West Side Urban Renewal area subsequent to 1963 up to the present time?

A Well, in 1963 I either read about or heard about the concept of the Urban Renewal program. I went into the area. I did not know the area that well. I went into the area to see what was going on. I began a study to familiarize myself with the blocks and with the West Side UrbanRenewal program, to see again, to determine, if there was a market for me as a broker, a sales market, and I did this research and then I started to work actually as a salesman in that area.

Q Did you obtain a map of the West Side Urban Renewal area?

A Yes, I did.

Q Did that map show the designated parcels of the West Side Urban Renewal area?

A Yes.

Q Did you use that map during this period in connection with dealing with people in connection with

their properties in the area?

A Yes.

THE COURT: Over what period was this, Mr. Haldenstein?

THE WITNESS: I used a map from 1963 through 1973.

Q Up to the present time as a matter of fact?

A I think the map is missing at the present time.

Q Did you engage in a campaign to interest people in buying brownstones?

A Yes.

Q Would you tell us what y ou did?

THE COURT: You mean in that area?

Q I am speaking only now, my questions are limited, to the West Side Urban Renewal area. If I don't repeat that, assume that in my question.

Tell us what you did.

A Well, I secured properties for sale. I canvassed for properties for sale. And then I advertised those properties and when I received responses from prospective purchasers I would invite the purchasers to come to my office and I would then give orientation about Urban Renewal programs and about properties in the area.

Q In connection with the orientation that you gave

about the Urban Renewal program, did you make a study of the Urban Renewal program in order to inform them of what the terms and conditions would be if they did acquire a brownstone?

A Yes.

Q Where did you obtain the information that you used in order to convey to prospective purchasers --

A I obtained some of the information from the field office, the City's field office at West 89th Street.

Q Did you obtain it from public notices that you received from the HDA or the City?

A Yes.

MR. MORRIS: I ask that this public notice be marked for identification.

THE COURT: Please mark it.

xxx (Plaintiffs' Exhibit 58 was marked for identification.)

Q I show you Plaintiffs' Exhibit 58 for identification and ask if this is one of the public notices to which you refer?

A Yes, sir.

MR. MORRIS: I offer it in evidence.

THE COURT: Any objection?

(Pause.)

MR. LAND: Your Honor, this particular notice, Plaintiffs' Exhibit 58, contains no date. I have a question as to when this particular notice was issued, and whether it was preceded or succeeded by other notices of similar or varying content.

Other than that we have no objection.

THE COURT: Can you fix the date, Mr. Haldenstein, when that came to your attention, this last exhibit, 58 for identification? If you can't I will understand it. Let me have your answer, whatever it is, under oath.

THE WITNESS: I think it was 1964.

THE COURT: Very well.

MR. LAND: No objection.

MR. GOLD: No objection.

MR. DOUW: No objection.

THE COURT: It will be received.

(Plaintiffs' Exhibit 58 was received in evidence.)

xxx

Q Mr. Haldenstein, when a prospect came to you in connection with the rehabilitation or the acquisition and rehabilitation of a brownstone in the West Side Urban Renewalarea, would you tell us what you did with respect to that?

A Yes. I would outline in general terms what

the program called for, in other words, the new construction on the avenue sites. I would talk about the slated rehabilitation program for brownstones, different categories involved, in other words, houses the city was offering for sale, that is one category.

The private homes that were being offered for sale, that was a second category. Those were the two major categories, I guess.

Q What would you tell the people who were prospects? What would you do with respect to their acquisition of a property and their rehabilitation of it?

A Well, of course, we would have inspections of property that were for sale in the normal manner of a broker. We would discuss the houses the city was offering for sale and I would refer the prospects to the city office for more orientation, and there was different provisions in the rehabilitation program that was available to these prospective buyers who would be called sponsors of brownstones for rehabilitation, and I would try to outline the various steps to them in my office and then direct them to the city office for more indepth discussion.

Q Is this the procedure that you followed in connection with the sale and rehabilitation of the 64 or 65 odd properties that you testified to earlier you were

the broker for?

A Yes. I was not the broker for houses that the city had for sale.

Q Tell us what type of properties you were the broker for?

A I was the broker for properties that were privately offered for sale by private parties and I would follow those procedures because in a number of instances the houses that might be purchased by these prospective buyers were slated for full rehabilitation. In other instances they were not. It would be a matter of upgrading.

Q Would you tell the Court what you found to be the condition with respect to the rehabilitation of brownstones and the acquisition during most of the 1960's?

A Well, the houses that called for rehabilitation were generally in deplorable condition. They were generally single room occupancy buildings, SRO's, as they were called. These were brownstone where the apartments had been cut up in many instances into rooms and families were living in rooms. Where these buildings could no longer continue in this condition in the Urban Renewal plan, rehabilitation was called for.

Q Was there interest in the people you approached in acquiring and rehabilitating these buildings?

A Yes.

Q Tell us what the nature of the interest was during the period from 1963 until about 1970.

MR. LAND: This would be hearsay on this man's part, to testify as to what someone else's interest was.

MR. MORRIS: He is testifying from his own knowledge and experience as a broker.

THE COURT: I think there I will sustain the objection. I will allow Mr. Haldenstein, and he has not hit it yet, to say what it was that he said to them with regard to this property and with regard to the Urban Renewal. The man impresses me as an intelligent person. I might be able to get information from him that is vital here.

Do you understand what the guts of this case is, Mr. Haldenstein?

THE WITNESS: Yes.

THE COURT: I wonder if you would be good enough to address yourself to that. What was it that you said to these prospective buyers of the brownstones in the area of the Urban Renewal projects that you can summarize for me? What did you tell them? I presume you covered the ground thoroughly as a real estate broker should who is licensed to practice.

THE WITNESS: Yes, sir.

THE COURT: Did you pretty much go over the same ground with all of them?

THE WITNESS: Yes, I did.

I tried to explain to these people exactly what was to happen in the West Side Urban Renewal.

THE COURT: You are giving us the summation of it. "I said to them," in effect, or, in substance, "I told them" --

What was it?

THE WITNESS: I told them that there was new construction slated on 48 development sites. It was basically along the avenues, Columbus and Amsterdam. The walkups were slated for demolition. New construction was scheduled over a period of years.

There was a schedule in three stages. The first stage was from 97th to 93rd, then 93rd to 90th and the third stage from 93rd to 87th.

I tried to give some indication of the timing of the three areas. Stage 1, the upper third of the Urban Renewal area was scheduled to come first in completion.

I discussed the pilot project, 95th to 93rd Streets in the city-owned brownstones and what was scheduled there.

I covered the auction that the city had which

turned out to be a failure on the sale of 19 brownstones in those three blocks.

As time passed we discussed the negotiated sale of those negotiationed sale of those city houses so people would get an idea what the city was trying to promote as far as a rehabilitation of brownstones. Unfortunately that program worked out in a very slow way.

Then I discussed with the prospects actual rehabilitation that was taking place, private rehabilitation--

THE COURT: What did you say on that score?

THE WITNESS: That such and such a house has been bought for rehabilitation. You can see the renovation taking place. We can walk down such and such a street and we can see a gut job taking place and new apartments being created.

I would discuss how a building can be renovated and provide living space to the purchaser, the renovator, and the purchaser could have apartments for rental to provide income to carry the expenses of this renovated dwelling, and then I would usually, in many instances, actually take the prospect for a tour of these blocks, in other words lead them from block to block -- it is pretty time-consuming-- and explain how each block was developing.

THE COURT: Time-consuming it may have been, but

you had a rainbow at the end of that? Everybody was making a great sacrifice.

What else did you say, if anything?

THE WITNESS: We discussed the actual purchase of a possible brownstone and the details, the financing and the negotiations of a particular sale.

THE COURT: I have not heard you say up to now anything with regard to a discussion, with comment by you, to these prospective purchasers as to the complexion, so to speak, of the area, the makeup of the area, in which they were going to purchase the brownstone. Was that a fact you advanced?

THE WITNESS: Yes.

THE COURT: What did you say on that score?

THE WITNESS: I did cover the ground that this area was slated to be an economically balanced area. That was the concept. It was to be a socially-balanced area. I was able to point to the map and discuss different sites that were slated for middle income housing or low income housing to give the prospect an idea of the program that was scheuled to move along.

THE COURT: That map that you are referring to, who was it prepared by?

THE WITNESS: I am not certain, your Honor, whethe

the HDA planned it or the Planning Board.

THE COURT: One of the Governmental units?

THE WITNESS: Yes, sir.

THE COURT: Y ou may proceed.

BY MR. MORRIS:

Q Did you also discuss with the tenants the question of what was possible and what could be done with respect to the physical alteration of the brownstone itself?

A Yes, I did.

Q Did you discuss with them the necessity for retaining architects and builders to consummate the alteration?

A Yes.

Q Would you describe to the Court the nature of the people with whom you work? Were they professional or young families or things of that sort?

THE COURT: What was that?

MR. MORRIS: With whom he was dealing in contemplating these transactions.

THE COURT: The prospective purchaser?

MR. MORRIS: Yes.

A In the main the were younger families. The household tenant could be a professional man, a lawyer, doctor, a musician. There was a wide variety of prospects. These were people, they were interested and, well, I wanted

to embrace the concepts of the program.

THE COURT: What makes you say that?

THE WITNESS: I did say to these people, there were people that backed it up, this was a blighted area and we hoped this was an area that would improve. There was an opportunity for a young family to get in on the ground floor because of the price of the houses at that point. Hopefully this would be a very comfortable place for the families to live in the future, to bring up their children, and we tried realistically to create a favorable picture which we believed in.

Q Was there discussion about integration of the area?

A Yes.

Q Tell us what that was.

A Well, it would be a balanced integrated area.

Q Was there discussion about it being racial as well as economically and in other way?

A Yes.

Q What would you say happened with respect to real estate values during the period from 1963 to 1970 relating your answer to the brownstones which you handled?

A Well,my feeling was that brownstone values increased approximately 25 per cent. I would say from

1965 through 1967 that happened. And from 1967 --

Q 25 per cent each year?

A Yes. From 1967 to the end of '69 it was approximately 10 to 15 per cent.

Q Can you give the Court some idea of the expenditure that was made by the people who acquired and rehabilitated these brownstones?

A You are talking about cash investment?

Q Total expenditures including cash and loan obligations.

A Well, I would say there was a range there from approximately $100,000 to$200,000.

Q Can you give the Court an estimate of what in your opinion was the total amount spent in the rehabilitation and acquisition of brownstones in the area?

A My figures would show a minimum of about $30 million.

MR. DOUW: Is that in relation to the brownstones that he brokered?

THE COURT: I take it that is so.

A I am thinking of the area as a whole, the Urban Renewal area as a whole.

MR. MORRIS: My question was addressed to West Side Urban Renewal.

MR. DOUW: If it is to the area as a whole I move to strike the answer.

THE COURT: Motion granted. I strike the answer.

Q Were you familiar with the brownstones that were acquired and rehabilitated in addition to those for which you acted as broker?

A Yes, sir.

Q Did you make it your business to keep abreast of what was going on with respect to that?

A Yes, sir.

Q Did you have knowledge as to what occurred with respect to those brownstones?

A To a great degree, I believe.

Q Was the estimate that you just gave me predicated upon your experience and your knowledge of what occurred in the area with respect to those brownstones?

A Yes, sir.

MR. DOUW: Objection. It is not a sufficient foundation.

THE COURT: Yes. Objection sustained. There is not sufficient foundation as a matter of law.

It is now 7:30. I said I would sit until that time.

Mr. Haldenstein,you are directed to return here at ten o'clock tomorrow morning promptly.

Gentlemen, you will be ready.

I have other plans before ten o'clock. Please be ready on the dot, ten o'clock tomorrow morning.

Announce an adjournment until that time.

(Adjourned to Tuesday, May 7, 1974, at 10:00 A.M.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Jay I. Olnek	1994			
(Recalled)	2046	2067	2122	2126
Charles H. Tenney	2028	2030		
Lisa Kolb Liebert (Recalled)		2038	2042	
Austin K. Haldenstein	2130			

EXHIBIT INDEX

Plaintiffs	Identification	In Evidence
48		2021
49	2033	
50	2033	
51	2034	
52	2034a	
53	2046	
54	2048	2049
55	2059	2061
56	2065	
57	2135	
58	2141	2142

TRINITY EPISCOPAL SCHOOL CORP.
et al

v. 71 Civ. 4315

GEORGE ROMNEY, et al

May 7, 1974
10:00 A.M.

(Trial resumed)

MR. LAND: Your Honor, yesterday I received the supporting data as to Mr. Olnek's testimony with respect to Plaintiffs' Exhibit 48 which is a breakdown of the apartments at Leader House. I reviewed the accompanying data sheets and I think it would be beneficial to have them put into evidence.

What it shows in particular is that of all the studio apartments for welfare persons, that each of those studios is occupied by just one person who is either middle age or elderly. As to the one-bedroom apartments, all of those apartments are occupied by a woman and her minor child, and typically the form shows that the woman is aged between 19 and 25, has one minor child, I think the youngest of which was two and a half months old.

I think this type of documentary evidence gives some flavor to the type of persons who are residing in Leader House against which the allegations of harm and destructive living considtions has been alleged.

THE COURT: What else do you want to say, sir?

MR. LAND: That's all, sir.

THE COURT: Do you have any objection to the exhibit number -- would you let me have the number?

MR. LAND: 48.

THE COURT : -- 48 for identification going in?

MR. LAND: No.

THE COURT: You say as long as the other material goes in.

MR. SHALL: Shall I do it now?

THE COURT: Answer the Judge's question. Have you any objection to 48 for identification going in if the Judge admits the material to which you have just alluded?

MR. LAND: No, your Honor.

THE COURT: Anybody else?

MR. DOUW: May I see the exhibits, your Honor?

THE COURT: You mean you are going to start

A Most of them. I can't say everyone.

studying those now?

MR. DOUW: Just a moment, your Honor.

THE COURT: That is exactly what may account for the terrific delay.

MR. DOUW: No object, your Honor.

THE COURT: How about you, Mr. Gold?

MR. GOLD: No objection.

THE COURT: Do you have any objection, Mr. Morris?

MR. MORRIS: No.

THE COURT: You have already made a recital of papers that you took and would you be good enough just to repeat that recital. Give me the top one, please. We can let the plaintiff do the introducing.

Mr. Clerk, would you be good enough to mark as Plaintiffs' Exhibit in evidence a batch of letters referred to by Mr. Land last evening dated February 23, 1972, from the Housing Development Administration addressed to Hampton Management Company and consisting of about four or five sheets. Mark it as an exhibit please.

(Plaintiffs' Exhibit 59 was received in evidence)

xxxxxxx

THE COURT: The next that Mr. Land referred to last evening is headed move outs. That consists of

have the record clearly show what you mean.

about four or five pages, photostats.

(Plaintiffs' Exhibit 60 was received in evidence)

xxxx

THE COURT: The next is entitled "Leader House, 20 welfare studios." That consists of a good number of photostatic copies, all stapled together in each case.

(Plaintiffs' Exhibit 61 was received in evidence)

xxxx

THE COURT: The next is "Leader House, 20 welfare, one-bedroom" to which there is attached a good number of photostats. That likewise is stapled.

(Plaintiffs' Exhibit 62 was received in evidence)

xxxx

THE COURT: And the next is a group of four or five photostat reports attached together, stapled, entitled "Off welfare".

(Plaintiffs' Exhibit 63 was received in evidence)

xxx

THE COURT: And the last enumerated by Mr. Land last night and which he took home to study is headed "Financial Statements of Leader House dated March 12, 1970," one sheet.

(Plaintiffs' Exhibit 64 was received

xxxx

argue at the appropriate time that it is entitled to no

in evidence)

THE COURT: And the Court was in error when it referred to 48 for identification. It actually was 48 in evidence with the Court stating that if there was not supportive proof it would be stricken. And so 48 in evidence remains, of course, 48 in evidence.

Thank you.

MR. LAND: Your Honor, there is one thing I wish to bring to the Court's attention as to the additional documents that have just been put in evidence.

There is some question that these documents which give the name of individuals and a description of their source of income being welfare may be privileged information in which although it can be introduced in evidence for purposes of Court proceedings, it is not, I understand, the regulation -- I could be wrong -- it is not information which should be publicly disclosed outside the confines of this proceeding.

THE COURT: Thank you. Would you be good enough to remind us again at the appropriate time and on each occasion when you think it appropriate we will bear it in mind. Of course, we would not want to do otherwise.

MR. LAND: Thank you very much.

The motion will be considered a motion to

THE COURT: Will you proceed, Mr. Morris.

A U S T I N K. H A L D E N S T E I N, resumed.

DIRECT EXAMINATION CONTINUED

xxxx BY MR. MORRIS:

Q Mr. Haldenstein, would you describe for the Court the situation that you observed with respect to the West Side Urban Renewal area during this period of your activities that you described in your direct testimony from 1963 up to 1970?

A Yes. I would say that each year from the early '60s through the end of '69 we had an improving situation on the blocks. Each year more of the brownstones would be renovated or upgraded, the blocks would look better in appearances, there would be more optimistic feeling by the residents on the blocks. That continued each year during this period.

Q And was it observed that there were old buildings being demolished and new buildings constructed?

A Yes, on the sites.

Q And did that have any impact or effect on the neighborhood?

A Absolutely.

Q Would you tell us how?

A That gave everybody a feeling of optimism that the Urban Renewal plan would be continued, would be fulfilled, as it was originally outlined and adopted, and there was a welcoming of new residents coming into the completed apartments. It was just a general feeling of optimism about the area.

Q Was there any discussion during this period of the number of low income families that would be brought into the area during this period under the terms of the Urban Renewal plan?

A I believe --

Q Was there any such discussion?

A Yes.

Q Would you tell us what that discussion was?

MR. LAND: May we have with whom?

THE COURT: Yes, of course. With whom?

THE WITNESS: Well, I had a discussion with City officials in the local office. There was material in the newspapers and there was a discussion between myself and my prospective buyers.

THE COURT: Now tell us the substance.

THE WITNESS: This concerned the number of low income units to go into the total number of units

in the Urban Renewal area and the number that was discussed was, I believe at that period, 2500 units.

Q 2500 units of low income housing?

A Yes, sir.

Q Was there a discussion about whether the area would be segregated in various ways?

A Yes.

Q And would you tell us what those discussions were?

A Well, there wasn't in-depth discussions because there was not too much knowledge. I personally didn't have too much knowledge except it would be a segregated area.

Q Did there come a time when there was a change in the conditions that you just described that occurred during the 1960s?

A Yes.

Q And would you tell us what that change was and when it occurred and what you observed about it?

A Well, it occurred, I believe, in 1970. That was the time that the squatters came into the area and occupied apartments in the walk-ups on Columbus Avenue, I believe. At that point there was the beginning of uncertainty about what was happening to the Urban Renewal

program, about the progress of the plan.

THE COURT: About when did that take place, Mr. Haldenstein?

THE WITNESS: 1970, I believe.

THE COURT: What part of the year, do you remember?

THE WITNESS: I believe it was the early spring.

THE COURT: Go on with your testimony.

THE WITNESS: There was some doubt created about the commitment of the City to move along with the sites. There was a change in feeling among the brownstone owners from an optimistic feeling to a feeling of bafflement, I guess, and possible discouragement.

Q Can you tell us what happened with respect to market values as a result of the conditions you described that arose in 1970?

A At that point there were less possibilities to make sales of brownstones because of the general discussion and publicity resulting from this.

end T1

Q You gave us some figures, percentages, of the rate of increase in values that occurred during the 1960s. Can you give us some idea as to what happened with respect to values beginning in 1970?

A I would say there was a decrease in value. It is hard to pint that down. Possibly 10 or 15 per cent.

Q Per cent what?

A Decrease in value.

Q In a year or two years or five years?

A From 1969 to 1970, the values went down when this situation developed.

Q How much did the values go down between 1969 and 1970?

A I am estimating 10 to 15 per cent.

Q What happened subsequent to 1971?

MR. LAND: Your Honor, we wish to strike that testimony on the ground that a foundation has not been laid as to testimony in respect to a decrease in the value of properties. We have not one statistic, not one particular brownstone mentioned in which there was a decrease in value, but just a general statement of decrease. I doubt if the witness is competent to testify as to valuation, and if he is, the foundation has not been laid.

THE COURT: There is a great deal in what you say. However, our examination of the law with respect

to cases of this nature dealing with neighborhoods -- and we shall pronounce that and make it a part of the record -- indicates strongly that when the issue is before a Judge without a jury testimony may be received which ultimately may be stricken, but that the Court should in the first instance, receive it even though it is limp and unsupported but seems to be relevant.

That doesn't say it is not subject to a later incision.

In fact, I have anticipated this because you will see from the minutes I gave you permission to renew motions to strike at any time, even though the Court has ruled adversely. Reconsideration by you may prompt you to take a position to renew it or renew some of the rulings, and I did that purposely because I felt that all the testimony on a given point could not be elicited on one particular occasion, that it might be drawn out and, finally, either be made out or succumb to a motion to strike.

That does not say that Mr. Morris is not obligated in the first instance to complete the report. He can't come in and say "Here is a report. M offer it in evidence."

It gives you the right to say, "On what do you base that report? Anyone can come in and feed material

that looks awfully bright for one side as against the other, but what does that material really consist of?"

So I am going to hold each one of you strictly accountable to the rules of evidence, and unless Mr. Haldenstein is prepared to be far more expansive with respect to what he predicates his reactions on, I will have to strike.

So right now there is a pending motion and decision is reserved. If you do not fill it in by appropriate material or sufficient material to warrant it staying in, I am going to strike it.

Do you understand, Mr. Haldenstein, there has been no attack so far on your expertise. You have a familiarity with the problems. You dealt with the brownstones. You handled customers, not only on a weekend, but for years.

When you say 10 per cent, 15 per cent, that is going far beyond the power of any person to expect that that will be final.

"I, the great Haldenstein, say 10, 15 per cent." You may be perfectly right but on what do you base it? Try to give us an answer on that.

THE WITNESS: Yes, your Honor.

I don't have the answer today. I am sorry.

THE COURT: Unless he has the answer the motion is granted and the testimony 10,15 per cent, is stricken with permission to renew it.

Q I didn't hear your last answer.

A I don't have specific figures on brownstones.

Q Did you conduct and actively engage in the purchase and sale of brownstones in the area during this period from 1969 to 1970?

A Yes, sir.

Q Would you tell the Court what occurred during that period between 1969 and 1970 with respect to the market value of brownstones at that time?

MR. LAND: Same objection.

THE COURT: I will hear it. You may renew your objection. Right now the objection is overruled.

A It almost came to a halt in 1970 and what business we did was, I think, at a proportionately lower price level than the year before.

Q You gave us a percentage before of 10 to 15 per cent drop in values. What did you predicate that 10 to 15 per cent estimate on?

A That is my general recollection at this point.

Q Is it predicated on your knowledge of actual sales and transactions that occurred during the period?

A Yes, but I don't have the figures here now.

Q You did conduct sales, did you not?

A Yes.

Q Didn't you actually participate and weren't you paid brokerage commissions --

THE COURT: I have a suggestion.

Mr. Haldenstein says very frankly to us that he has not got the figures. He feels in his desire to be accurate and to be truthful that he would feel more certain of his answer if he could look at the figures.

Am I right so far?

THE WITNESS: Yes, sir.

THE COURT: I suggest that he write a letter to you in which he sets forth on what he predicates it and you show it to counsel. They may very well be satisfied with it and it may very well go in as an exhibit. That will curtail all this exploratory waste of time without getting us anywhere on that particular point.

Is that agreeable to counsel? That usually is agreeable. If you find there is objection, go ahead and register it at the right time.

I am going to so direct.

You understand that when you furnish that letter that will be a letter furnished by you as though it were

a part of your sworn testimony?

THE WITNESS: Yes, your Honor.

Q May we also have the letter with respect to the trend of market values for the period subsequent to the year 1970.

THE COURT: Will you do that too, Mr. Haldenstein?

THE WITNESS: Yes, your Honor.

THE COURT: There it is.

And in as much detail as you can.

THE WITNESS: Yes, your Honor.

Q Did you in 1970 and subsequent thereto encounter a situation where people who had invested in brownstones had talked to you about selling brownstones?

A Yes.

Q Tell us what occurred with respect to those.

A Well, some brownstone owners became so depressed with the situation that was developing in the area that they talked to me about selling.

Q Did in fact some resales occur?

A Yes.

THE COURT: Are you prepared to tell me under oath that "their depression," as you put it, was the same in each instance?

THE WITNESS: No, sir.

THE COURT: Will you give me more detail than that? Would you say that the so-called depression was the same in some instances or the majority of instances of resale? What do you say?

THE WITNESS: Well, there were people that talked to me about rese-ling. They characterized the situation in the area. The actual resales that were resales, in some instances, I would say, to the main, were made because of the change in the status of the area. In other instances it was more than one reason. There might be any of the reasons that people would sell along with the feeling of uncertainty and unhappiness as to what was happening.

THE COURT: Then the uncertainty and unhappiness of what was happening, I take it you mean by that the change in the formula, the economic mix of the area, am I right so far?

THE WITNESS: It was different things including the squatter invasion.

THE COURT: But the different reasons, did they not relate to the alteration of the initial formula?

THE WITNESS: That was a reason, yes.

THE COURT: So that reason, I gather from you, was assigned by almost everybody among other reasons they gave, or am I wrong in interpreting your testimony?

A Most of them. I can't say everyone.

THE COURT: Of course. In the majority of instances that was one of the reasons assigned, is that what you are saying?

THE WITNESS: Yes.

THE COURT: Next question.

Q Did you make observations during this period of the nature of the tenants and the nature of the people moving into the area, speaking of the period 1970 and subsequent thereto?

A Well, we had the squatter situation which was observable.

Q Were there any other situations of that nature?

A There was a situation where there was, evidently, a change against the stated formula of the middle moderate income units. I could not tell myself. I was not watching people moving in and out.

Q You did observe the area during this period, did you not?

A I observed the area, yes.

Q From your own observations -- we are not interested in what someone else told you -- what was the impact or the effect on the area of these different people coming in?

THE COURT: By "different people" you better

have the record clearly show what you mean.

Q Of the low income families that were coming in.

A We had problems. They seemed to be emerging.

Q Tell us what the problems were that were emerging.

A Well, there were reports of petty crime. At that period, because of situations like the squatter development, there were meetings, there were demonstrations. A general situation was developing that was disturbing.

THE COURT: The general situation that was disturbing will have to be stricken.

That is what you are getting up about?

MR. GOLD: Yes. That is one point.

Also, your Honor, just going back for a moment to the testimony of Mr. Haldenstein with respect to the feelings of people and what they told him as to their reasons for selling brownstones, that seems to me to be hearsay testimony. If those people have feelings and said something maybe we ought to have them here and tell us.

THE COURT: But he was right there and they were the ones that said it to him and that is the testimony he has given under oath.

MR. GOLD: We don't know who these people --

THE COURT: That would not necessarily exclude the testimony. You can attack it and weaken it. You can

However, the home that is for sale will then be published

argue at the appropriate time that it is entitled to no weight if any weight at all.

As to whether it is relevant and admissible? I have to say in my humble opinion it is and stands until it is broken down by your cross-examination.

MR. GOLD: In addition to that, your Honor, this last testimony with respect to not only a general situation but squatters moving in, increased petty crime in the area, unless Mr. Haldenstein has observed so-called increased petty crime and the squatters actually moving in, I don't see that he is competent to testify.

THE COURT: The cases that we have examined allow this kind of testimony. The weight to be given to it is another proposition. It is admissible if you have such a witness as this witness who has already told us his great familiarity with the neighborhood, the reason for his intimacy with details.

As you go around a neighborhood and get reports from all and sundry that petty crime is taking place, and the person so advised establishes concern with the problem and the reasons for his concern, that makes it admissible. The weight to be given, however, because it lacks exactitude and specificity, is an entirely different proposition. It is admissible, however.

THE COURT: Mr. Land, you have been a formidable

The motion will be considered a motion to strike. It is denied.

Q Was there originally a completion date for the Urban Renewal plan that was set?

A It was presented to me as 1970.

Q The entire completion of the area by 1970?

A This was presented to me in the early sixties.

Q What occurred actually with respect to completion of the plan?

A Well, it was way behind schedule and it was not competed by 1970.

Q As a matter of fact, is it completed as of now?

A No, sir.

Q Did that have any effect on the brownstones and on the area in general in accordance with your observations?

A Yes.

Q Would you tell us what effect that had?

A Well, we discussed the program with buyers, prospective buyers, and with new owners too. We directed our attention to the three stages. The first stage was completed relatively close to schedule.

Then we started to get into problems in the second stage and people of course were concerned with that.

Dates were not being met. Sites were not being vacated and demolition was not taking place. That was the second stage.

The third stage was even further behind where there was no action on many of the sites.

THE COURT: Next question.

MR. GOLD: Your Honor, I unders what your feeling is on admitting certain types of evidence in this type of a case where there are a lot of complex things happening, but this testimony of Mr. Haldenstein with respect to completion of the area by 1970, it appears to me, is completely irrelevant. There is no cause of action here against any of the defendants based on a breach of contract relating to completion of the area. I don't see what relevance that testimony --

THE COURT: Well, it is part of the general picture. In telling us what the tenants' view was or what the condition of the market was, which in turn is based on what is transmitted by way of oral communication between tenants, prospective tenants, and one who has given the greater part of his life to this kind of work, such as the instant witness, the counter balances, and shows it was not one thing that was disturbing. What you say may be right but that doesn't exclude it.

I will let it stand.

MR. MORRIS: May I explain to your Honor that these are exhibits which I gave counsel when they came in this morning. I told them I was going to introduce them. They are looking them over now.

THE COURT: Mr. Morris and gentlemen, we have a problem yet to resolve and that is something that was said off the record yesterday in the robing room and which we are agreed should be taken up some time today and placed on the record.

One of the things I am going to say on the record on that point -- it might as well be said now -- you will see in the minutes that I directed that in the event there was an exhibit of more than two pages the proposed exhibit should be turned over to your adversary well in advance so that he may examine it thoroughly and be prepared to take a position. That has not been obeyed. I don't think that you do it purposely. I know that you are crowded. But I am crowded too. We have got to have a distinct understanding that we must eliminate the waste of time that has already occurred in this particular bad practice of not giving the adversaries sufficient time to study an exhibit in order to take a position at the trial.

So from now on see to it that that rule by the Court, which the Court directs again, be observed meticulously.

Now, are you ready to go ahead?

MR. LAND: I have completed the three documents and I have no objection to that.

THE COURT: To what?

MR. LAND: The introduction into evidence of these documents.

THE COURT: How about you, Mr. Gold?

MR. GOLD: No objection.

MR. DOUW: No objection.

THE COURT: Let the clerk mark them in evidence.

MR. LAND: Could Mr. Morris read the identification of each exhibit so we can make notes?

MR. MORRIS: May I do that, your Honor?

THE COURT: Yes.

MR. MORRIS: I offer in evidence Housing and Development Administrator West Side site office Urban Renewal Area memorandum consisting of three pages as of January 1969, by Jason R. Nathan, Administrator.

xxx (Plaintiffs' Exhibit 65 was received in evidence.)

MR. MORRIS: I offer also West Side operations

bulletin #23 of the Housing and Development Administration dated February 23, 1968.

THE COURT: Mark it.

xxx (Plaintiffs' Exhibit 66 was received in evidence.)

MR. MORRIS: And I offer the West Side Urban Renewal area fact sheet of the Housing and Development Administration, dated January 1, 1969, with the number 70 written over it in ink.

THE COURT: Mark it.

xxx (Plaintiffs' Exhibit 67 was received in evidence.)

MR. GOLD: Might I suggest, and I have been trying to do it from our side, that we have copies of these documents by the person who introduces them as promptly as possible. It is impossible to work without those copies.

THE COURT: Yes. We will add that as a direction, that copies of exhibits shall be made in this order. One for each counsel and one for the Judge.

MR. MORRIS: Yes, your Honor.

THE COURT: All the exhibits so far produced must be photostated for the Court. That has not been done and I want it done. Every exhibit up to now on both sides must be photostated and handed up to the Court.

MR. MORRIS: The last exhibit Mr. Land wants me to point out is on the letterhead of HDA.

THE COURT: Yes, sir.

Next question.

MR. MORRIS: That's all.

THE COURT: Cross-examine.

CROSS EXAMINATION

XXX

BY MR. LAND:

Q Mr. Haldenstein, I presume that you are not the only real estate broken who sells property in the West Side Urban Renewal area, is that correct?

A That's correct.

Q About how many other brokers are there?

A I don't think I can put that in exact numbers. It varies, it changes.

Q Would it be fair to say there are probably a dozen other firms like your own who carry on the same type of business within that area?

A I would say there are about four or five that are regularly involved.

Q In addition to the ones who are regularly involved, there are the ones who do real estate business on a periodic basis?

A There are always other names that are in the

picture at some point or other.

Q Were there more real estate brokers and salesmen during the early years of the redevelopment of the area than there are now?

A I would say no.

Q Mr. Haldenstein, through you the plaintiff has put into evidence Exhibit No. 58, which was a public notice, is that correct?

A Yes, sir.

Q This public notice I presume is issued by the City of New York, is that correct?

A I believe so.

Q It indicates here Milton Mollen, Chairman of the Housing and Redevelopment Board.

This notice lists 17 addressed. I presume those 17 addresses, each one of those are brownstones?

A Yes.

Q And is it correct to assume that as to each of these 17 brownstones -- I think there are 17. Maybe my addition is wrong, but it looks like 17 -- as to these 17 I presume that the City purchased these brownstones from the owner and then offered these brownstones for sale to private individuals as part of the Urban Renewal plan. Is that correct?

A Well, purchase in a general sense, yes. I don't remember how they took them.

Q There has been some testimony, and I think it's correct, from other witnesses that the City embarked upon a plan to purchase a number of the most delapidated brownstones and then to offer those brownstones for sale to private persons who would obtain financing to completely remodel and renovate those brownstones.

Is that your understanding of how that plan operated?

A In the pilot area.

Q And these are some of the brownstones that fit into that picture, is that right?

A Yes.

Q I also assume these 17 are not the total number of brownstones purchased by the City.

A No.

Q Would you say the total number is somewhere in the neighborhood of 200 brownstones?

A No.

Q How many would you say?

A Well, I believe -- again, I don't know how they took them. The number the City took that were

actually offered for repurchase by the public was, I think, around 28, and I think the number that the City took -- that were developed into public housing were approximately 38.

Q Okay.

A There may have been more than that, but it was in that context.

Q So somewhere around 50, total, brownstones the City purchased and offered for sale to private people, somewhere around 50, 45?

A I am not including anything within the development sites which basically were walk-ups, not brownstones. I am not knowledgeable.

Q There were definitely much more than listed here, that is what I am driving at, a lot more than indicated on Exhibit 58?

A I think your number 50 to my knowledge would be on the maximum side.

Q Okay. The prise list adjacent to the addresses on Exhibit 58, is that a price which was fixed by the City at which it would sell the brownstones?

A Yes.

Q Was that price negotiable?

A No.

Q Do you know how the City arrived at the varying prices here? For example, I think the highest one they have here is listed as $34,000 for an apartment at 7 West 95th Street and the lowest appears to be $21,500 at 29 West 94th Street, a difference of greater than 50 percent.

Can you tell us why such a difference would occur?

A Well, I was not involved in this area directly because there was no brokerage involved for a broker. You want my general feeling about prices? I can give that to you.

Q Yes.

A The buildings were larger and they were better located.

Q What is a better location, near Central Park West, for example?

A I don't kow if that list is all buildings on a park block between Central Park West and Columbus. There were houses on what we call the park block and houses on the second block between Columbus and Amsterdam. The houses on the park block were considered more valuable.

Q The park block is the one that runs into

Central Park West, is that correct?

A Yes.

Q That would be the apartments between Columbus Avenue and Central Park West being a park block?

A The houses.

Q Okay. When a prospective purchaser would come into your office and say something to the effect, "My wife and myself and our family are moving into this area; do you have any brownstones for sale", would you show them this public notice as to what the City was offering?

A No, not generally.

Q In other words, even if someone through your walking tour of the area and your general description, if by reason of that they would purchase one of those brownstones, you would receive no compensation either from the purchaser or from the City, is that correct?

A That's correct. I wouldn't say that. I might have an arrangement -- I don't recall now -- as I did in certain instances where the buyer paid a commission. I can't relate that to this list.

Q There are certain instances where a buyer would buy a City-owned brownstone but buy it by reason of some work that you have done to interest him in the

community, and you would receive a commission from the buyer?

A I could have. I can't recall now this list.

Q I am not asking for specifics. I am getting a general feeling how you made money in this project.

A That was a possibility, yes.

Q Do you know as a matter of fact that in some instances you did receive compensation from a buyer of a brownstone from the City?

A I don't recall now. I just don't recall whether I did. There were instances where I received compensation from buyers and I don't recall whether it was the City buildingsor other buildings.

Q Let me ask you this: Obviously --

A City-owned buildings.

Q -- you received compensation upon the sale of a private brownstone, did you not?

A Yes.

Q As to that you are absolutely certain?

A Absolutely.

Q Otherwise you would be out of business.

A Absolutely certain.

Q But as to the brownstones owned by the City and sold by the City, you think but you are not sure that

in some instances you received a commission from the buyer?

A It may have happened. If it did happen, it was in very few instances. I wasn't generally concerned with the sale or anything to do with the sale of City houses except to have a general knowledge.

Q As to the other brownstones, the ones that were sold by private persons, I presume in some instances you would represent the seller and in some instances you would represent the purchaser, is that not correct?

A In the great majority of instances I represented the seller.

Q Let me ask you this: Were all brownstones for sale listed on a multiple listing for all brokers in the area?

A No, not all of them. We don't use a multiple listing system.

Q Were the majority of them listed with multiple listings?

A I am confused when you say multiple listing. Do you mean in a formal sense?

Q Let me ask you this: In some instances when a person desires to sell a home he will go to one particular broker and list that house with that broker.

Q Would it be fair to say that it was from those

However, the home that is for sale will then be published in some digest or guide which is distributed to all real estate brokers. Any real estate broker may sell that house. However, if the broker who sells that house was not the original one contacted, a portion of the sales commission will be delivered over to the initial broker. That's what I mean by multiple listing.

Is that your understanding of multiple listing?

A Yes. We didn't have that system.

Q What system did you have?

A We had a situation where the seller either gave the listing to more than one broker or he made an exclusive arrangement of some sort with one broker, one or two brokers.

Q Mr. Haldenstein, referring to Plaintiffs' Exhibit 57, which is your list of the brownstones which your firm sold, which contained approximately 65 brownstones, I resume that the other real estate companies in the area probably had a similar record as yours such if you sold 65 and there were approximately four other brokers, that the total number of brownstones that were sold during the period indicated here was somewhere in the neighborhood of 200 or 250.

to take up in connection with your connection with brown-

gwjw 10 Haldenstein-cross

THE COURT: Mr. Land, you have been a formidable objector with regard to lack of foundation on which to predicate an answer. You are asking him to tell us the secrets, the private notations by other brokers and that is supposed to be all right but when it is done by your adversary to a lesser degree you are up like a flame, indignant, and you state your apprehension and you are consumed with apprehension. What goes on here? How is that a good question?

MR. LAND: Maybe it is not a good question.

THE COURT: Look, the Judge is talking to you. The record shows I pointed it out. You either give the Judge an answer or have the wisdom to say. "Judge, I withdraw it."

MR. LAND: I withdraw it.

THE COURT: Next question.

Q Mr. Haldenstein, do you know the operation of other real estate brokers other than yourself?

THE COURT: Yes or no.

Q Are you familiar with the operations?

A To a very general, vague --

THE COURT: They don't tell you their secrets that bring about their success any more than you reveal yours, is that right?

THE WITNESS: That's correct, your Honor.

THE COURT: Next question.

Q In your direct testimony you referred to the fact that there were some brownstones which you re-sold after 1970 by reason of, in part, apprehension on the part of current owners due to the conditions in the West Side Urban Renewal area, is that correct?

A It's not correct. We had sales due to certain conditions. Conditions were part of the reason for selling. It wasn't so much re-sale. I don't think I stated that.

Q Your testimony was to the effect, at least the impression I got was that a number of people who had purchased brownstones prior to 1970 decided, by reason of the conditions which occurred during 1970, to sell their brownstones and to move out of the area.

Is that not correct?

A People discussed it.

Q Do you know in fact if any persons moved out after 1970?

A There were sales after 1970, yes.

Q How many sales were there that you participated in?

A Re-sales?

Q Yes.

A Of my own customers?

Q Yes.

A There were just a few.

Q Right. Isn't it a fact, Mr. Haldenstein, that of the total of 65 apartments --

A Houses.

Q -- buildings which you sold that the re-sales -- of all the re-sales, consisting of 7 only three occurred after 1970 or during or after 1970, isn't that a fact?

A If that's what it shows, yes.

Q And in fact four of them were re-sold prior to 1970, is that not a fact?

A If that is the date, yes, sir.

Q You indicated, I think, in your direct testimony that after 1970 there came a halt in the purchase of brownstones, is that not a fact, you testified to that?

A In 1970 there was a virtual halt. There wasn't a complete halt as far as I was concerned.

Q Mr. Haldenstein, referring to your Exhibit No. 57, is it not a fact that it reflects on this exhibit that from 1970 to the present time there were a total of 16 brownstones initially sold after 1970?

You may check that if you like.

A 14 on the last sheet.

Q And two on the other sheet, one and two. 16?

A Yes.

Q Out of the 65 apartments --

A Houses.

Q -- houses that you participated in the sale, 16 occurred during or after 1970, that's correct, isn't it?

A Yes.

Q Is it also not a fact that during the early stages of the Urban Renewal plan -- that's early and mid-1960s -- that there was simply a greater number of apartments available for purchase,is that not a fact?

A Houses?

Q Yes, houses.

A I would say yes.

Q So that as the houses became purchased during the early 1960s and up to 1970, the supply of available houses to redevelop became smaller, the supply decreased, did it not?

A Yes.

Q And with the decrease in supply would it not be expected that there would be less sales in the future

in terms of the total number because the supply is decreasing?

A The answer to that is that there were in the early years more houses available for major renovation and there was a concerted program to provide the means to do this renovation and that phased out. The houses were available for sale but it was a different market, type of market.

Q A smaller supply?

A Not exactly. It was a different type of market developed. I don't know if I am expressing myself.

THE COURT: I don't quite understand that. What do you mean by a different kind of market developed?

THE WITNESS: From 1970 and afterwards, our market was houses that needed upgrading rather than general renovation and there were houses for re-sale.

Q Let me ask you this, Mr. Haldenstein, as a real estate man in terms of judging how a market is doing in terms of sales: Assume that a community has 100 houses available for purchase as, for example, -- may I strike that, please?

Assume that a community has approximately 250 brownstones available for sale during the very short

period of time as was the Urban Renewal plan when it came into fruition in the early 1960s, and assume that in one year out of the 250 brownstones for sale 25 were sold in one year. That would be a ten percent sale of the available stock, would it not be?

A I can work with your assumptions but I don't agree with them.

Q Would that be ten percent?

THE COURT: Explain that to me. I want to be edified. I don't understand some of this unless it is explained to me in simple terms.

What did you mean by that last answer?

THE WITNESS: I was in that market as a real estate broker and I did not know about 250 buildings for sale at one time in the early '60s.

THE COURT: You understand his is a hypothetical question relating to another area or what?

MR. LAND: Yes, another area.

THE COURT: He wants to get your reaction to what he is going to put in a hypothetical and not the actual facts as he understands them relating to the West Side Urban Renewal area. Do you understand that?

THE WITNESS: Thank you.

Q Asume a community has 250 houses for sale

within a short period of time and during that period of time 25 are sold. Would there not be a ten percent turnover then of the available supply? Is that not correct?

A Yes.

Q Now, assume another community with one 100 houses for sale during a relatively short period of time and during that time 15 houses are sold. Would that not mean a 15 percent turnover of the available supply?

A Yes.

Q Comparing these two communities, one community sold 25 houses, the other community only sold 15, is that not correct?

A Yes.

MR. MORRIS: Comparing which two communities, your Honor? I don't follow the question.

THE COURT: In the hypothetical.

MR. MORRIS: We haven't identified the communities.

THE COURT: No, he is giving a hypothetical. Go ahead.

Q In terms of raw numbers, the community with 250 houses for sale sold more raw number of houses than

did the other community, did it not?

A Yes.

Q 25 houses versus 15, is that not correct?

A Yes.

Q Yet in the other community the rate of sale was greater, was it not?

A Correct.

Q As a real estate man, would you not find that based upon a bet' r rate of turnover that you would prefer to sell in that community because its rate is greater and it shows a greater marketability of houses?

A I don't know how to answer that. I think it would depend on a lot of other factos, knowing the area and knowing the potential. As far as I am concerned personally, I don't know how to answer that question.

THE COURT: All right, next question.

I don't want to interrupt the balance of your cross, but are you almost through, Mr. Land?

MR. LAND: I am not.

THE COURT: Recess, gentlemen, for no more than eight to ten minutes.

(Recess)

THE COURT: Continue.

BY MR. LAND:

Q Mr. Haldenstein, do you know the approximate number of brownstones that have been sold on an initial sale as part of the Urban Renewal plan from the early 1960s until the present time?

A My estimate would be about 300.

Q Mr. Haldenstein, I presume that you are familiar with the type of housing located on Central Park West, are you not?

A Yes.

Q Would you consider that to be luxury housing?

A Yes.

Q As to the approximate 300 brownstones which were sold during the period, you testified on direct examination that the total cost of the acquisition of the brownstones and renovation ranged between $100,000 and $200,000; did you not testify to that?

A Each property?

Q Yes.

A Yes.

Q Based upon that type of investment, between $100,000 and $200,000 per brownstone, would you consider such brownstones now to be luxury housing?

A It depends how you define "luxury". It is medium upgrading to luxury upgrading.

Q The answer would be yes, luxury houses?

MR. MORRIS: No, your Honor, that was not his answer at all.

THE COURT: That's right. His answer stands. The question is stricken.

Next question.

Q Mr. Haldenstein, in order for someone to have a luxury housing for a four-story brownstone, how much money must one invest in that in order to obtain the amenities of what you consider luxury housing?

A To obtain luxury housing, a gut type renovation increase in cost ranged from $12,000 to $15,000 a floor and increased to $20,000 or more per floor to renovate.

Tk 4

THE COURT: Tell me what you are after so I can follow it. What do you want to show me?

MR. LAND: I want to establish as to these 300 brownstones that were renovated, these are luxury houses, the finest the city has in existence today. I think this witness can testify to that fact.

THE COURT: If they are the finest or even if they are near fine or even if they are the low fine, what difference does that make. I don't know what I will get from all of this. I take it they are luxury or, as he put it, upper moderate to upper luxury. I know what that means. Certainly there is a vast distinction between that type of dwelling and the other kind of dwellings that we have been talking about. You don't need to press that any further. The proof is overwhelming on that score.

MR. LAND: I want to make sure you understand.

THE COURT: I understood.

BY MR. LAND:

Q Mr. Haldenstein, you testified that you had a map which you used to give the orientation tours to the prospective purchasers, which map you obtained from some city official, is that correct?

A Yes.

THE COURT: "I don't have it," he said. I pressed him on that.

You did not remember whether it was from the city or State or Federal, is that not so?

THE WITNESS: I believe it was the City Government.

THE COURT: Now he says he believes it was the City Government.

Proceed.

Q I show you what has been marked as Plaintiffs' Exhibit 14A in evidence. Is this the type of map which you had in your possession which you used to conduct the orientation tours?

A Yes.

Q On this map you will notice that a number of areas are indicated for development along Columbus Avenue.

A Yes, sir.

Q Do you know for example as to Site 36, which I indicate with my finger, what that particular site was originally planned as?

A I believe it was middle income. That is my recollection.

Q At all times, if you know?

A I think the designation was changed to moderate

housing somewhere along the line.

Q The tone of your answer indicates that you are not sure, is that correct?

A That is the best I can recall.

THE COURT: The map you just looked at, 14A in evidenc, are you reasonably sure that was the type of map that you have been referring to in your testimony?

THE WITNESS: Yes, sir. It was a larger edition.

THE COURT: But in essence 14A that you have just examined is a copy, on a smaller scale, of the large map you have been referring to?

THE WITNESS: Yes, sir.

Q Mr. Haldenstein, when you acquired your knowledge of the West Side Urban Renewal area and what its plans were, did you have occasion to speak with people within the city administration who were familiar with that Urban Renewal plan?

A Yes.

Q Do you remember the names of those people?

A Most of my discussions were with the officials in the local office.

Q Do you remember their names?

A Mr. Hunter and Mr. Lauria.

A Yes.

Q Would it be fair to say that it was from those two individuals thatyou obtained most of your knowledge as to oral statements about the Urban Renewal plan?

A Yes.

THE COURT: I would like to make the observation that the City made me believe that Laura and Hunter were really in an entirely different area of activity, yet everybody points to those two people as the ones who gave the most vital information relating to this entire area.

That is the difference between general argument and proof.

Q Do you know what the responsibility of those two individuals was?

A Mr. Hunter was in charge of that office.

Q Do you know what his responsibility was?

A I believe he was in charge of the brownstone program. I don't know how much more his responsibility encompassed beyond that.

Q Was he in charge of explaining financing, in charge of explaining how the plan worked, in charge of selling brownstones, in charge of the redevelopment of architectural plans for particula? brownstones?

A I think he was in charge of all of those things.

THE COURT: With regard to any matters you wanted

2 Q That is basically the goal of Urban Renewal?

to take up in connection with your connection with brownstones, was he the one you went to and got answers from on the points you wanted to have resolved?

A I spoke more frequently with Mr. Lauria.

THE COURT: Did either one of them tell you they were not in a position to respond and you should go elsewhere for your information?

THE WITNESS: In many instances they did not have the answers.

THE COURT: What did they say with regard to that?

THE WITNESS: They said that the situation was being discussed or resolved downtown.

Q In addition to the oral discussions you had with these two gentlemen, did you also obtain your knowledge of the Urban Renewal area from written maerial?

A Yes.

Q Have you ever read the Urban Renewal Plan or any one of the Urban Renewal plans?

A I am not sure what you mean, the specific plan. I guess I am not aware. I have a number of bulletins and papers.

Q Do you know whether or not there were any revisions of the original Urban Renewal plan?

A Yes. There were four or five revisions.

Q Do you know the approximate dates that the first revision took place and the last one took place, the span of time involved?

A Well, I believe it was throughthe sixties, at different stages.

Q I show you an exhibit annexed to Plaintiffs' Exhibit 14 which is the fourth revision of the Urban Renewal plan. It is about three-quarters of an inch thick with typewritten information, even including a map here, which is a map with a big 3 on it, This is the fourth revision of the urban Renewal plan. Did you ever read that document?

A I think I have seen that, but I don't think I have read it completely.

Q Do you recall what written material you have read, a particular booklet, a particular document, that we could get a hold of and look at?

A Yes.

Q Tell us.

A I had several things.

THE COURT: What are they?

THE WITNESS: There were a few documents that were put into evidence today that I am familiar with --

yesterday and today.

Then there is a brochure, rehabilitation in the West Side Urban Renewal area, issued by the Housing Development boards.

THE COURT: Do we have that?

MR. MORRIS: It is in evidence.

MR. GOLD: I think it is Plaintiffs' Exhibit 13.

MR. MORRIS: Yes.

THE COURT: Show the original to him.

Q I show you Plaintiffs' Exhibit 13 in evidence entitled "Rehabilitation in the West Side Urban Renewal area."

A Yes.

Q You read this document?

A Yes.

Q The other document you habe shown me is Plainti Exhibit 10 entitled "West Side, A summary of the financial plan." You read that?

A Yes, sir.

Q Is there anything else in particular you want t bring to our attention as to what you have read?

THE COURT: Other than the exhibits already introduced in evidence since you took the stand.

THE WITNESS: Well, there were of course published articles in newspapers and magazines, and there may have been several other documents.

Do you want me to take the time?

THE COURT: I think you should. He asks for it.

We will have a short recess.

(Recess.)

THE COURT: Mr. Haldenstein, are you ready to answer?

THE WITNESS: Yes.

THE COURT: Give us the list.

THE WITNESS: I have three more documents.

THE COURT: Give us the titles.

THE WITNESS: One is "Minimum Property Standards for Urban Renewal Rehabilitation, 1 through 11 living units, West Side Urban Renewal Area, New York, New York, September, 1965."

At the bottom of the page it says "Federal Housing Administration, 2 Park Avenue, New York," and also "Housing Redevelopment Board, 2 Lafayette Street, New York, New York."

THE COURT: Is anybody offering that in evidence?

MR. LAND: May I see it for a moment.

THE COURT: Surely.

(Pause.)

THE COURT: Mark that for identification in the meantime. You can look at it later.

xxx (Defendants' Exhibit V was marked for identification.)

THE COURT: What is the second paper?

THE WITNESS: General standards and controls for rehabilitation of properties, West Side UrbanRenewal area.

xxx (Defendants' Exhibit W was marked for identification.)

THE COURT: The last?

THE WITNESS: I think the third was introduced. I am not sure.

MR. LAND: This is already in evidence.

THE COURT: What is the title?

MR. LAND: The West Side Urban Renewal Area, published by the Housing and Development Administration, Jason R. Nathan, Administrator, dated some time after January 1969.

THE COURT: Thank you.

Proceed, Mr. Land.

Q You mentioned that your understanding of the

West Side UrbanRenewal plan called for approximately 2500 units of low income housing, is that correct?

A Yes,sir.

Q Where did you obtain that information?

A That was the figure which I believe was being used at the Urban Renewal office and it was also in printed material.

Q Was your understanding of the Urban Renewal plan a fixed and immutable plan not subject to modification or change?

A We thought, and I thought, the plan was going to follow the adoption by the Board of Estimate.

THE COURT: Why can't you answer the question more directly, yes or no?

A Yes.

Q If that is so, how do you account for the fact from your own testimony you were aware of four revisions of the plan during the 1960s?

A Obviously there were changes. I would hear about the changes early after they took place.

THE COURT: What were the changes in general, as you recall? What do you mean by "changes"? Changes of what?

THE WITNESS: There were revisions of the statu

of different sites.

THE COURT: By that you mean what? The economics?

THE WITNESS: Yes. Originally certain sites I believe were slated for fair market rents. Those sites were redesignated. There were changes at each stage.

THE COURT: When you say "changes," you mean the change that you had just explained?

THE WITNESS: Yes.

Q You testified that one of the factors which you related to prospective purchasers, and I quote your words, was that they could get in on the ground floor. Was that your language?

A That is what I said.

Q Do you recall saying that?

A Yes.

Q What do you mean by that?

A Well, this was an area that was a blighted area. This was an area that was on the downgrade. Here was a program to lift the area, to improve it, to make -- to improve it in the sense it would be comfortable living. It was an opportunity for my prospective purchasers to make a commitment to something for the future. In addition to that, properties were available at what seemed to be

a moderate cost.

Q So that in part by getting in at the ground floor one would be able to acquire a property at a modest cost and hope in the future the value of that property would increase for investment purposes?

A That was one reason people got involved.

Q Did you participate in the sale of the brownstone by Mrs. Lisa Liebert?

A Yes.

Q Were you her broker?

A Yes. I was not her broker, but I represented the seller. She was the purchaser.

Q I am speaking of her sale of her brownstone which she testified about earlier this year.

A I am sorry.

Q You testified you sold her brownstone earlier this year. Did you participate in that sale?

A I don't remember the testimony.

Q Did you participate in the sale of Mrs. Liebert's brownstone earlier this year?

THE COURT: Give him the location.

A I don't remember that testimony at all.

Q The address is 113 West 88th Street.

THE COURT: Did you have anything at all to do

with that piece of property at any time?

THE WITNESS: Yes, sir.

THE COURT: Whom did you represent?

THE WITNESS: I represented the seller, Dr. and Mrs. Liebert purchased that property.

THE COURT: That was the extent of your connection with that premises?

THE WITNESS: They have since resold it.

THE COURT: Did you represent anybody on the resale of that property?

THE WITNESS: Yes. I represented Dr. and Mrs. Liebert on the sale.

THE COURT: That is what he asked you.

THE WITNESS: He said something about testimony.

THE COURT: I know. He was identifying it. That is no concern of yours.

The point is, he wants to know, did you have anything to do with the resale of that piece of property? Your answer is yes.

Next question.

Q The sale that I am referring to as to Mrs. Liebert's sale, to your knowledge is that the sale which occurred very recently within the last month or so?

A Yes.

Q And I understand that you then were the broker for Dr. and Mrs. Liebert upon the recent sale of their brownstone?

A Yes.

THE COURT: To be more exact the closing or some connection with that resale was to take place in June of this year. Am I not right?

MR. MORRIS: That is correct.

THE COURT: Is that the property you are talking about, Mr. Haldenstein?

THE WITNESS: Yes, your Honor.

Q Mr. Haldenstein, you testified that some of the sellers expressed to you, some of the sellers of brownstones, feelings of depression. Was Dr. and Mrs. Liebert one of those sellers who expressed such feelings?

THE WITNESS: Do I have to answer that question?

THE COURT: Yes.

A Yes.

Q What did they say to you in respect to their feelings as to depression?

A Well, they were very unhappy with the development and the progress of the program, the Urban Renewal plan.

Q What else did they say to you?

THE COURT: You mean on that score?

MR. LAND: Yes.

A They hoped specifically -- they had hoped the high risers slated for the sites on the block where they were located and the surrounding blocks would have been located by now.

Q Did they say anything else to you with respect to their feelings of depression?

A Well, they were generally unhappy about the situation where their house was located.

Q Did they tell you why?

A They felt that the particular location was uncomfortable.

Q Did they tell you what they meant by the word "uncomfortable"?

A Well, I don't know another word for uncomfortable. They didn't feel secure there, I guess.

Q Secure? What did they mean by "secure"? Did they tell you?

A The corner there was a walkup and I think that was one of the areas -- I am not sure if that was the specific building, but around that building was where the squatters occupied. That was a situation that was unexpected and was not along the lines that everybody had expected the plan to develop.

Q So to sum up your understanding of what Dr. and Mrs. Liebert told you, they had feelings of depression, uncomfortableness and insecurity related to these squatters that resided near them?

A That was one reason.

THE COURT: I don't see how you can say that. I heard his testimony. Please.

Q What other reasons --

THE COURT: He gave us all those reasons.

Was it confined to the squatters or did you not say the other reasons that they gave you? Did you not so testify or am I in error?

THE WITNESS: You are correct.

THE COURT: Next question.

Q Are you familiar with other Urban Renewal plans in the city of New York?

A No.

Q Do you currently sell houses located outside the Urban Renewal area?

A Yes.

MR. LAND: I have no further questions.

THE COURT: Mr. Gold.

I take it there will not be any duplicity of questioning by counsel. Once a ground is covered, unless

you feel for good reason, leave it alone and don't cover the same ground.

Proceed, Mr. Gold.

CROSS-EXAMINATION

BY MR. GOLD:

Q You said you had become active in the West Side Urban Renewal area in 1963 and prior to that you were a management consultant with a firm called National Downtown Services, is that correct?

A Yes.

Q At National Downtown Services, did that involve Urban Renewal?

A Not strictly, no. In other words, our role was to work with downtown businessmen and to counsel them on what they could do to preserve and upgrade the central business areas.

Q Was that in New York City?

A That was around the country.

Q Was that work also in New York City?

A Not in New York City. We did some work in the surrounding area, the metropolitan area.

Q When you first became active in '63 in the Urban Renewal area in the West Side, you said you made a study of the area, is that correct?

A Yes.

Q What did that involve?

A That involved trying to learn as much as I could about the UrbanRenewal plan. Actually, I scouted the blocks, I became familiar with the blocks, and I talked to property owners, talked to new purchasers.

Q Did you do any reading in connection with Urban Renewal outside of any particular area?

A I did general reading. I did some reading.

Q What did you read, sir?

A I don't recall.

Q Would you say based on your reading, your general reading, and your study of Urban Renewal made at that time would you think it would be fair to say that the basic purpose of Urban Renewal is clearance and redevelopment?

A It had been, but this plan was different and that was part of the excitement of this particular situation. It would not be all clearance. It would be preservation of housing stock, renovation of housing stock, and also clearance and new construction.

Q So there would be clearance insome areas, rehabilitation in other areas, conservation in other parts, and redevelopment generally?

A Yes, sir.

Q That is basically the goal of Urban Renewal?

A This was a new program in the sense that we could rehabilitate. It didn't call for complete clearance.

Q In other words, it did away with the so-called bulldozer theory, is that correct?

A Yes.

Q Since you became familiar and studied Urban Renewal with respect to the West Side, did you do any further study with respect to any other Urban Renewal areas in the city?

A Just casually.

Q Would it be fair to say, sir, in connection with your studies and your involvement in the West Wide Urban Renewal area that you developed an experties in the sale and financing of brownstones?

A Yes.

Q Including the rehabilitation of brownstones?

A Certainly the first part of your statement, I agree with that. I don't think I was an expert in rehabilitation, but I had knowledge.

Q In other words not an expert as a construction person?

A That's right.

Q That was really your main area in the West Side

Urban renewal plan, was it not?

A Yes, sir.

Q When you undertook this study of the West Side area you saw a fertile market for the sale of these brownstones, did you not?

A Yes.

Q A lucrative market with respect to yourself as a broker, is that not so?

A Well, I thought there would be a living to be made there.

Q Did you make a living in connection with the sale of the brownstones in that area?

A I did up to 1970.

Q What was the average brokerage on a brownstone in which you represented someone as a broker in the West Side Urban Renewal area?

A I just want to add, I was not exclusively involved in the Urban Renewal area.

Q Only relating to the Urban Renewal area. What was your average brokerage commission on the sale of a brownstone?

A It was two or $3000.

Q Times let's say about 65, is that correct?

A No. The brokerage increased as prices rose, as sales price rose.

Q The prices rose from the period 1963 through 1969 and 1970?

A That was an increase, yes.

Q Would you say that the total commissions that you made in this area over that period of time were somewhere in the neighborhood of a quarter of a million dollars?

A This is a question I would have to think about. I don't know it offhand. It is about $150,000.

Q Do you still maintain an office at 225 Central Park West?

A Yes.

Q Between 82nd and 83rd Streets?

A Yes.

Q Is that your only office?

A Yes, sir.

Q So that there is still a market in the West Side area for a real estate broker, is that correct?

A Yes, sir.

Q Since you have testified that the brownstone sales have become rather infrequent these days in the area, what type of buildings are you brokering for?

A I am selling brownstones throughout the West Side.

Q What do you call "throughout the West Side"?

A I consider my area from Lincoln Center to Columbia University.

Q 65th to 110th?

A Approximately.

Q From Riverside Drive to Central Park West?

A Yes.

Q There is enough activity to keep you busy on a daily basis up there?

A Yes, sir.

Q You make a living?

A Yes, sir.

Q Are you familiar with or have you been involved in the sale of brownstone buildings on 78th and Amsterdam, 107, 109, 111 and so on? Do those sound familiarto you?

A Yes.

Q Were you the broker?

A In what transaction?

Q With respect to the sale of brownstones which are being rehabilitated in that area.

A I am a broker on some of those properties, yes, sir.

Q Is your specialty still brownstones or do you work in other areas as well?

A We work in other areas too.

Q Could you tell us what those are?

A Cooperative apartment sales and also some commercial properties.

Q In the area between 65th and 110th that you have described has the cooperative apartment sale business been good?

A It is an improving situation as of the present.

Q It is improving?

A Yes.

Q What is the average price, Mr. Haldenstein, of a cooperative apartment in the area you have delineated?

A $40,000 to $50,000.

Q That is one apartment unit?

A That is a cooperative apartment, yes.

Q In connection with your conversations with the now famous Mr. Lauria and Mr. Hunter in the field office of the city, were you aware of the capacities in terms of the work they were doing at the time you spoke with them? Were you aware of the capacity within the framework of the city Government when you spoke to them?

A All I knew was that Mr. Hunter was in charge of the office in the early stages, to the best of my knowledge.

Q Would you say Mr. Hunter was an expert in brownstone financing and rehabilitation?

A Well, he was knowledgeable.

Q He was knowledgeable. Was he held out by the City to be an expert or knowledgeable in brownstone financing and rehabilitation?

A He was the man the City indicated was responsible, to the best of my knowledge.

Q For brownstone sales, correct?

A Yes.

Q Let's put it this way, Mr. Haldenstein: When a prospective purchaser was interested in buying a brownstone in which you represented the seller and they asked you, "What do I have to do to rehabilitate this," did you take them to see Mr. Hunter and Mr. Lauria in the site office?

A Mr. Lauria was usually available and he took that role.

Q He took that role. And he explained, did he not, to you and to your client the plans that had to be adhered to, the specifications, is that correct, for brownstones?

A Yes, generally in the area of gut jobs, complete rehabilitation.

Q Right. Okay. Were there a lot of gut jobs in

the brownstones in which you represented the sellers?

A It was a good portion.

Q Were the gut jobs financed through the Federal Housing Administration?

A Yes.

Q Were any of those gut jobs financed through conventional lending institutions or conventional means?

A Yes, they were generally upgrading jobs.

Q In other words, the upgrading jobs were financed without any government assistance and the gut jobs were financed FHA-wise, correct?

A Yes.

Q In both cases, sir, was it necessary to fill out many forms and make applications to banks?

A In the government area, there were endless forms. In the upgrading portion, it was a conventional situation that would apply to any sale of property where a mortgage was involved.

Q Would you say it was part of your function as a broker in connection with a given property, that you helped to prepare all these various forms and applications?

A No, I did not.

Q Not at all. Did you then take your prospective purchasers to either Mr. Lauria or Mr. Hunter or both of them to help in that direction?

A Yes, where the government was involved.

Q When you say where the government was involved, you are talking now about the FHA-financed job?

A Yes.

Q And Mr. Lauria was helpful with those forms?

A Yes, sir.

Q Right. He knew what to do?

A Yes.

Q And when you came into the field office, sir, was there a map on the wall similar to the small map that Mr. Land showed you earlier?

A I don't recall that. It could have been.

Q I show you, Mr. Haldenstein, Plaintiff's Exhibit 13, which I think you said you had received during this period of time.

Did you receive that from the people in the field office?

A Yes.

Q Did that concern itself exclusively with brownstone development?

A Yes.

Q You also mentioned that you discussed with Mr. Lauria or Mr. Hunter or both very generally what was going to happen in the Urban Renewal area, is that correct?

A That's correct.

Q And did they give you any specific information during those discussions?

A Well, it could have been. I wouldn't recall the specifics at this point. Our talks were mostly of a general nature.

Q General nature?

A Yes.

Q Specific with reference to brownstones, general with reference to anything else?

A Yes.

Q Okay. I think you said there came a point in time when they were not able to answer a question and they referred you downtown to 2 Lafayette Street.

A Yes, sir.

Q Did you ever go downtown, by the way, Mr. Haldenstein, to 2 Lafayette Street for any of that information?

A Yes, I did.

Q Did you have discussions with anyone at 2 Lafayette Street?

A No, I really didn't, as I recall. I just tried to get what information was available.

Q Okay. Now, you were intimately connected with

the area, is that correct, during the period 1963 to '70?

A Yes.

Q And you had an office generally in that area?

A No, I didn't.

Q Where was your office during that period of time?

A 60 East 42nd Street.

Q 60 East 42nd Street. Would you say you visited the area several times a week during those years?

A Yes, at least.

Q At least. And these orientation groups that you set up, did that occur consistently or on an ongoing basis from '63 to '70?

A Yes. It was individual people, couples, and so forth. It wasn't groups.

Q It wasn't a lecture type of series?

A No, it was not.

Q But you were trying to acquaint people with brownstone redevelopment, and so on, that was going on in the West Side?

A Yes.

Q And yet I think you testified that you were not aware of the fact or aware of what changes had occurred in the West Side plan from its original in 1962 certainly through 1966, is that correct?

A I think I said I wasn't that intimately aware of it before they happened.

Q You weren't aware before they happened, but would you say you were interested in what was going on in the West Side?

A Yes.

Q But you didn't make yourself or you didn't become acquainted with possible changes that might be going on during that period of time?

A I tried to keep knowledgeable.

Q Did you ever appear at any City Planning Commission or Board of Estimate hearings in connection with any of these changes?

A You mean appear as a speaker?

Q Appear as a speaker, yes.

A No.

Q Now, relative to your membership in the CONTINUE organization, is that a fairly recent happening?

A No, I have been a member since CONTINUE was started.

Q When was that?

A It was I believe in the mid-60s or maybe it was later than that. I don't recall the date.

Q There was one CONTINUE that appears to have

started in the mid-60s and then faded and then a new CONTINUE started in 1970, approximately.

Does that sound familiar to you?

A I don't remember it sort of collapsing, so to speak. There was some continued activity through the period.

Q Is that formal activity?

A More or less formal.

Q Were you an active member of the CONTINUE group during this time? When I say "active," did you participate in meetings?

A Yes.

Q Were you an officer of the group?

A No, I wasn't an officer. I am a director at the moment.

Q You are a director at the moment?

A The last couple of years.

Q And you were a director of the group that is headed by Mr. Jerome Fine, is that correct?

A Yes, sir.

Q And is that the same group that you were active in in the mid-60s?

A Yes, sir.

Q Mr. Haldenstein, you testified that most of the

people that came to you in connection with purchasing brownstones were, I think you said, young professional types, is that correct?

A Yes.

Q And I think you further testified that those people would embrace the concepts of the Urban Renewal program.

A That's right, some of them did.

Q Some of them did. What did you mean by that?

A I would make a presentation of the program and I would explain, to the best of my knowledge, what was slated for the redevelopment sites. I would explain the concepts of an economically balanced area, a socially balanced area, and I would explain the concepts for the brownstone upgrading and redevelopment, public housing on blocks where there were a majority of brownstones, public housing located within brownstone-oriented blocks, and then the specifics of what was available to aid people embarking on a renovation program, brownstone renovation program.

Q You didn't mean that the young professional types as people embraced the concepts of the program, did you?

A Yes.

Q You did?

A Yes.

Q In other words, it was your understanding that these young professional types were the type of people that the City was looking for in terms of the renewal in the area, is that correct?

A Well, I would say yes.

Q In your study of Urban Renewal and your familiarity with it, did you come across a situation in which Urban Renewal plans notoriously lagged behind projected completion dates?

A I was aware that it happened.

Q All right. When you read the various materials that you did which stated that the plan would be completed some time in 1970 and you looked about you as you went through the area, did you become aware of the fact that that could not happen?

A Yes.

Q Were you also aware of the fact that the Urban Renewal area was to be developed in three stages?

A Yes.

Q And that the area on 89th and 88th Streets was in the last stage?

A Yes, sir.

Q To be completed last?

A Yes.

Q And did you so advise your clients when they were considering purchasing brownstones on 88th and 89th Streets?

A Yes.

Q And did you advise them that the Urban Renewal process takes time and lags behind?

A Well, I don't remember specifically saying that. I was aware of it, of course.

Q You didn't tell people, in other words, that 1970 might not be a firm completion date for everything?

A I am sure I said that.

Q You did say that?

A If it came up, yes.

Q During the 1960s, would you say that the mortgage market was a favorable one in terms of people financing brownstones?

A No, it wasn't.

Q It was not at all?

A It wasn't at certain periods during the 60s.

Q Which period?

A As I recall, 1966, in that period, it was very poor.

Q Very poor?

A Yes.

Q What about today, sir? Is the mortgage market a favorable one?

A As far as our area is concerned, it's not an easy market.

Q It's not an easy market. Okay.

Is that a factor which has to be considered in terms of the less frequent sales of brownstones?

A It's a factor.

Q There are many factors, in other words?

A Yes.

Q And would you say that during the 1960s there was a trend in the West Side toward purchasing and renovating brownstones?

A Yes.

Q And that that trend hit a peak sometime in the 1960s?

A Yes.

Q And then dropped off?

A Yes.

Q And has that, in your years as a real estate broker, been a common experience, trends in purchase and development of particular types of housing and then

a dropping off?

A Yes.

Q Mr. Haldenstein, where do you live now?

A 142 West End Avenue.

Q West End Avenue?

A Yes.

Q Would you consider that the west side area?

A It is in my area, yes, the area that I work in.

Q So it's in the west side area generally?

A Yes.

Q I want to show you Plaintiffs' Exhibit 5 in evidence which is entitled "Preliminary Plan, West Side Urban Renewal Area," and was issued I believe some time in 1959.

Have you ever seen this document?

This is a copy of it.

MR. MORRIS: Here is the exhibit.

Q Have you ever seen this document?

THE COURT: Showing him Exhibit No. --

MR. GOLD: Plaintiffs' Exhibit 5.

A Yes. I have never had this in my possession. I may have seen it.

Q Hold it there for a moment, Mr. Haldenstein,

and let me direct your attention to page 15, if you will.

A Yes, sir.

Q I am reading in the second paragraph:

"The Preliminary Urban Renewal Plan, as proposed herein, is designed to create a stable residential area that will preserve the existing assets of the community and improve the area in those respects in which it is now lacking. Specific goals, which are based on the general standards established by the City Planning Commission, are:"

I wish you would follow me as I read these.

"One. The elimination of substandard housing with particular emphasis on the elimination of overcrowding and unsuitable use."

Would you say, Mr. Haldenstein, that that has been accomplished so far?

A They made progress.

THE COURT: Has that been accomplished so far? That is clear English. What is your estimate of that?

THE WITNESS: No.

THE COURT: Next question.

Q Has any progress been made in that direction?

A Yes.

Q Would you say that was substantial progress?

A Yes.

Q Number two. "Provision for new residential development of various types and rental ranges to serve a broad cross section of the community, with appurtenant retail development."

Would you say that that goal has been accomplished so far, sir?

A No.

Q Would you say progress has been made in that direction?

A Yes.

Q Would you say that was substantial progress?

A Yes.

Q Number three, sir: "Preservation and improvement of community facilities, including the provision of additional open space for both activity and passive recreation."

Would you say that that has been accomplished to date?

A No.

Q Would you say there has been progress in that direction?

gwjw 5 Haldenstein-cross

A No.

Q None whatsoever?

A Limited.

Q Limited. Number four: "Encouragement of permanent residents in the area through the improvement of amenities and accommodation for family living."

Would you say that that has been accomplished, sir?

A Yes.

Q Number five. "Creation of a harmonious balance of high and low structures and of open space."

Would you say that that has been accomplished, sir?

A No.

Q Has there any progress in that direction so far?

A Yes.

Q Substantial progress?

A Yes.

Q Number six. "Improvement of the tax base of the area by encouraging private investment on the broadest possible basis."

Has that been accomplished, sir?

A There is improvement.

THE COURT: Has that been accomplished, is the question? It is the same question that was asked about the other items so far.

THE WITNESS: No.

Q Has there been any progress toward that goal?

A Yes.

Q Substantial progress?

A Yes.

Q Number seven: "Reduction of traffic congestion and parking problems."

Has that been accomplished so far?

A No.

Q Has there been any progress in that direction?

A No.

Q None whatsoever?

A Limited.

Q Limited. Do you know, sir, if in the high-rise developments, particularly along Columbus Avenue, there is off-street parking provision?

A Yes.

Q And would you say that that off-street parking provision goes toward improving traffic and parking conditions?

A Yes.

Q So there has been some progress in that direction?

A Yes.

Q And number eight: "Development of active community participation throughout the renewal process."

Has that been accomplished?

A Yes.

Q Mr. Haldenstein, one last question. Are you being paid for your testimony here?

A No, sir.

MR. GOLD: Thank you.

THE COURT: All right, Mr. Douw.

CROSS EXAMINATION

BY MR. DOUW:

Q Mr. Haldenstein, are you presently a member of the board of directors of CONTINUM?

A Yes.

Q How long have you been a member of the board?

A I think it's approximately two years; two or three years.

Q Two or three years?

A Yes.

Q How were you selected for the board of directors?

A I believe there was a vote.

Q A vote by whom, sir?

A By the membership.

Q The membership of the board or the membership --

A The membership of CONTINUE at a membership meeting.

Q The rank and file membership, would that be correct to call it?

A As I recall, the meeting was open to the membership. The night they selected directors I believe was a membership meeting.

Q If you recall, how many people were attending that meeting?

A I don't recall.

Q You say you were associated with the CONTINUE organization prior to 1970, is that correct?

A Yes.

Q Do you recall a meeting in April or May of 1970 that was attended by several people associated with the CONTINUE organization?

A I don't recall it.

Q Let me ask you this: Mr. Haldenstein, there has been testimony by Dr. Tine and I believe also Mrs. Liebert that there was a meeting in April or May of

1970 which they described as an organizational meeting even though both recognized there was an earlier CONTINUE organization.

With that description, would that refresh your memory about a meeting in April or May of 1970?

A I don't recall the specific meeting. I believe there were meetings during that period.

Q Do you know Mr. and Mrs. Pryor?

A Yes.

Q During what period of time did you know them?

A That period you are discussing I knew them, I knew who they were.

Q Let me ask you this: Did you know them during the period of the 1960s in connection with the CONTINUM organization?

A No, I didn't. I don't recall.

Q But you knew them about 1970, is that your testimony?

A I believe so, yes.

Q Did the earlier CONTINUM organization or -- I will withdraw that.

During the 1960s, do you know whether the CONTINUE organization issued any kind of documents or newsletters or other kind of literature?

A I know they issued newsletters and material, and I don't remember the dates.

Q Did you ever assist in writing that literature?

A No.

Q I show you a copy of a document on the letterhead or headed with the name CONTINUE. It's called Memorandum Two. There is no date on the document. Someone has written in hand the date November 1966. I wonder if you recognize it.

A I believe I have seen this.

THE COURT: Mark it for identificat, please.

(Defendants' Exhibit X was marked for identification)

xxx

Q Do you recall when you saw Defendants' Exhibit X, Mr. Haldenstein?

A This exhibit?

THE COURT: For identification.

Q For identification.

A This exhibit?

Q Yes.

A No, I don't recall.

Q Do you recall whether the date written on it, November 1966, is a correct date?

A No, I don't.

Q Do you know whether you saw it in the period of the 1960s?

A I don't recall. I may be able to determine that by the material but I don't recall.

THE COURT: He asked you a simple question, do you remember whether you saw it in the 1960s.

THE WITNESS: No.

THE COURT: Next question.

MR. DOUW: No further questions.

THE COURT: Mr. Morris, any redirect?

MR. MORRIS: No redirect.

THE COURT: Gentlemen, I will excuse Mr. Haldenstein.

(Witness excused)

THE COURT: Next witness.

MR. MORRIS: Mr. Abe Roth.

MR. LAND: One last item. Does Mr. Morris wish to put into evidence the three documents Mr. Haldenstein referred to --

THE COURT: To wit, they having been marked. I can't get you gentlemen to remember the Judge insists on your identifying each document every time you talk about it.

MR. LAND: V and W for identification.

MR. MORRIS: No, I see no purpose in cluttering the record with that.

THE COURT: Very well.

xxxx A B E R O T H , called as a witness, being first duly sworn, testified as follows:

THE COURT: Mr. Roth, will you please remember that you are a sworn witness and all you have to do is just answer questions that are put to you and not volunteer any information that is not sought.

THE WITNESS: Yes, your Honor.

THE COURT: Most of the questions can be answered yes or no without any recital.

Did you see this paper? It is either yes, no or I don't remember. You don't add "because such and such."

THE WITNESS: Yes.

THE COURT: Please stick to the question.

All right, Mr. Morris.

DIRECT EXAMINATION

xxxx BY MR. MORRIS:

Q Mr. Roth, what is your occupation?

A I am a managing agent.

Q By whom are you employed?

gwjw 13 Roth-direct

A , Sulzberger-Rolfe.

Q And how long have you been employed by Sulzberger-Rolfe?

A Three years.

Q And do you have anything to do with the management of Columbus Manor and Westwood House?

A Yes, I do.

Q And how long have you had anything to do with the management of those two buildings?

A Since last September, '73.

Q September of '73?

A Yes, sir.

Q What did you do before you were associated with Sulzberger-Rolfe?

A I was in business for myself.

Q And what was the nature of that business?

A Real estate.

Q And what aspect of real estate were you engaged in?

A We were owners, general contractors and owners.

Q Owners of --

A Real estate property.

Q Rea estate. Was that residential real estate

or commercial or business?

A Residential.

Q Residential. And how long were you engaged in that business?

A Forty years.

Q And in connection with your involvement in those areas, were these buildings that you owned or managed or a combination of both?

A A combination of both.

Q And did you manage buildings for any particular entity?

A Yes, we --

Q Just a minute. Yes or no?

A Yes.

Q Would you tell us who that was?

A We started in this business with the New York Savings Bank.

Q And did you manage properties for the New York Savings Bank?

A Yes, sir.

Q And how long did you manage those properties?

A Over 25 years.

Q In connection with your management of Columbus Manor and Westwood House, would you tell us what your

activities are and what you do in connection with the management of these properties?

A I visit these properties once a week. I see the super, I hear complaints. He gives me orders that he needs for material or complaints which I take care of for him.

Q Do you also receive correspondence and telephone calls in your office in connection with the operation of these buildings?

A Yes, every day.

Q Every day?

A Yes.

Q Would you try to keep your voice up, Mr. Roth? It's a little hard to hear you.

Do you have anything to do with the situation with respect to the tenants paying rent?

A Yes, I do.

Q Would you tell us what procedure is followed with respect to the payment of rent by the tenants in these buildings?

A Well, those that are delinquent I am supposed to send dispossesses to.

Q How do you ascertain whether a tenant is delinquent or not?

A At the end of the month I have a delinquent sheet.

Q Where do you get that delinquent sheet from?

A I get it from the office.

Q When is that given to you?

A A few days after the first of the month.

Q And what do you do when you receive that delinquent sheet?

A I start preparing dispossesses.

Q And on what basis do you issue dispossesses based on that delinquent sheet?

A Those that are delinquent -- they were delinquent the prior month plus the following month.

Q You mean plus the current month?

A Current month.

Q And do you then issue dispossess as to those tenants?

A Yes, sir.

Q Would you tell us approximately how many dispossesses are currently in existence with respect to Columbus Manor?

A I have about 25 dispossesses that I am going to make out.

Q Are those dispossesses that are outstanding?

A Well, yes, they are outstanding.

Q And how many do you have on Westwood House?

A About eight.

Q And would you tell us the period of arrears that are involved in connection with those dispossesses?

A Well, they are for two and three months.

Q Are some of them for periods in excess of two to three months?

A They used to be in excess. I cleared up that situation.

Q Have you had some situations where tenants were in arrears more than one or two months?

A Yes, many.

Q How long a period were some of them in arrears for?

A Three, four, five months. That's why when I took over these buildings, that's what they were in arrears.

Q Do you also have charge of the eviction of tenants if they do not pay the rent after a dispossess?

A Yes. I mean I don't do the evicting. I have a marshal.

Q Have you had any evictions in these buildings?

A Yes.

Q How many have you had?

A I had half a dozen at least.

Q In connection with your activities in the management of the building, have you received complaints from tenants?

A Repeat that question, please.

Q In connection with your activities in the management of these two buildings, have you received complaints from tenants?

A Yes.

Q Would you tell us the nature of the complaints that you received from tenants?

A Tenants complained about noise, people playing the radio or hi-fi too ~~long~~ loud, halls are dity or the incinerator is dirty, children playing in the hall and congregating in the front of the building. Just nuisance complaints.

Q Do you have complaints relating to garbage?

A Yes, sir.

Q Would you tell us what these are?

A Well, garbage -- we have incinerators but people instead of throwing it down the chute throw it on the floor and in the hall sometimes. They even throw garbage out the window. There have been complaints

about that, too.

Q Do you have any vandalism in the building?

A Yes.

Q Would you tell us about that?

A The garage doors are constantly broken into and they go in and vandalize the cars that are in there. Also break windows.

Q Have you had complaints about roaches?

A Yes.

Q Would you tell us about those?

A We have an exterminator service there and people complain about roaches, and then the super also helps out in that field. He goes up with this man and tries to clear it out.

THE COURT: The simple question is, have you had any complaints with regard to the roach situation.

THE WITNESS: Yes, just from individuals.

THE COURT: Next question.

Q Do you have any problem with respect to graffiti in the building?

A Yes, there is graffiti in the stairwells and the halls.

Q How about the exterior?

A The exterior, yes, sir, all around.

Q In connection with the cleaning and maintenance of the building, of these two buildings, have you had occasion to have expenditures in excess of normal to the maintenance of these buildings?

A Yes, I have.

Q Will you tell us what they are?

A These halls, they are dirtied up and we have to use more materials and more manpower to keep them clean.

MR. HORRIS: That's all.

THE COURT: What do you mean by dirty? How dirty?

THE WITNESS: We have floors that shine just like this desk here, and they roller skate and mess it up and it all -- it is waxed, these floors, and you can't leave it there. It leaves marks.

THE COURT: Thank you.

Anything else, Mr. Horris?

MR. HORRIS: That's all

THE COURT: Any cross examination?

MR. LAND: No questions, your Honor.

THE COURT: Mr. Gold?

GWJW @L Roth-cross

CROSS EXAMINATION

BY MR. ROTH:

Q Mr. Roth, in your previous experience in your own business, what was the name of the company?

A Just my father and I.

Q Your father --

THE COURT: What was the name of your company? He didn't ask you who was in it. What was it called?

THE WITNESS: We had no name. We formed corporation later on. Roth. Roth Associates, Roth Properties, anything you want to call it.

Q In connection with the management of properties that you engaged in at that time, were these high-rise properties?

A No, sir.

Q Were they apartment buildings?

A Yes, small, ten, fifteen, twenty, thirty family buildings.

Q So that when you came into the west side as a managing agent in September of 1973, that was your initial experience in managing a building which has 200 or more units?

A Same difference. No difference.

Q I didn't ask that question.

A Yes.

Q In connection with the dispossesses that you are talking about, these are for non-payment of rent?

A Yes, sir.

Q Have you actually gotten involved in going to court in any of these proceedings?

A Yes, siree. It keeps me busy.

Q It keeps you busy. I see. Do you actually evict people?

A Yes.

Q Do you, by the way, have to get the concurrence of HDA before you do that?

A No.

Q You do not. How long do you normally wait until people are in arrears before you move to evict them?

A I said two months.

Q In your experience prior to coming to the west side, Mr. Roth, did you find that occasionally there were people who didn't pay the rent on time?

A This is my first experience like this.

Q First experience?

A In all my years.

THE COURT: All right, there it is. Next

question. A wandering cross-examination is usually non-productive, but I can't teach that unless a person knows it himself.

MR. GOLD: Okay, I will take your advice. No further questions.

THE COURT: Anything from you, Mr. Douw?

MR. DOUW: No questions.

THE COURT: Mr. Roth, you are excused.

(Witness excused)

THE COURT: Next witness.

MR. MORRIS: Mr. Sifonte.

THE COURT: He is being recalled?

MR. MORRIS: Yes.

THE COURT: Re-swear him. That is best.

xxx

R A F A E L S I F O N T E , recalled as a witness, being first duly sworn, testified further as follows:

THE COURT: Wasn't he the witness you were going to get an interpreter?

MR. MORRIS: Yes, your Honor. May I make a statement for the record?

THE COURT: I want you to know I remember a few things. Let's clear it away on these things.

Your duty when you recall a witness like this is to say, "Your Honor will remember" et cetera.

MR. MORRIS: I was about to say that.

THE COURT: I want to know before he sits down.

MR. MORRIS: I was about to do it. I was getting up to make that statement to your Honor.

THE COURT: Go ahead.

MR. MORRIS: We did, at your Honor's suggestion, get an interpreter for this witness who the witness arranged would meet him here this morning when he appeared to testify and the witness advises me that the interpreter who he arranged for did not show up this morning. Unfortunately --

THE COURT: So why did you call him to the stand?

MR. MORRIS: Because I think his English is good enough so we can get along. I would strongly request your Honor that you allow me to try to work with this witness because he has been in the country for nine years and I have talked to him at length and I think he does speak and understand English sufficiently well to testify even though we did make an effort to comply with your Honor's request that an interpreter be provided.

gwjw 25

MR. LAND: Your Honor, I have a suggestion. There is a gentleman here in the courtroom who I understand is fluent in both Spanish and English and he may be willing to volunteer his services to the Court.

THE COURT: I would be delighted and would be very greatful to him. Who is that?

MR. LAND: Father Farrelly.

THE COURT: I gather from his frequency here he is connected with --

MR. DOUW: He is the president of Stryker's Bay, your Honor.

THE COURT: I think that might be regarded as improper to do that, impose on him, because he has an interest and I am sure he would be a wonderful interpreter and the question is would that be wise in view of his concern.

end T5

MR. LAND: It is up to Mr. Morris. We offer his services and I think he would be truthful in his interpretation.

THE COURT: I didn't say to the contrary. I said "from his point of view. Later on it might be said" etc.

YOu don't seem to recognize these practical things. Later on, on appeal, or something you may be accused -- that is the way it is. That is human nature. These are the practical things we have to face.

I would be delighted to make use of him. Is it fair to him? That is all I am asking. What do you think?

MR. DOUW: I have not consulted with him. May I?

THE COURT: As a lawyer what do you think? Do you think that is good or not? If you would have no objection, fine.

MR. DOUW: If your Honor and Mr. Morris do not have an objection, I do not.

THE COURT: Let him come forward then.

Are you willing to do this Father Farrelly?

FATHER FARRELLY: Yes.

MR. MORRIS: With your Honor's permission I would

like to proceed in this way, if we might: I think the witness may be able to sustain the examination despite the language difficulty. If so I would prefer to have him proceed that way. Where, however, it is apparent that he does not understand or the question requires interpretation, we then will call upon Father Farrelly to do the interpreting, if that is satisfactory to the Court.

THE COURT: Certainly.

It is not necessary to swear the interpreter here, but possibly as a matter of form, you better do it. They will say, "Why not be sworn? He is no more important than anybody else."

(Father Thomas Farrelly duly sworn as the official interpreter.)

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Sifonte, you testified when you appeared before this court several days ago that you had left Leader House and become a superintendent in a building in Jersey City, is that correct?

A Yes.

Q Would you describe the conditions which existed in Leader House during the period that you were the superintendent there with respect to the drug situation? I

think you were about to testify as to that when we suspended at the last occasion.

A Well, that's the reason I moved out.

THE COURT: Explain to me what you mean. Give me some of the details.

THE WITNESS: What do you mean by details?

THE COURT: Give me some more information.

THE WITNESS: I have a family, five kids. I cannot live in a place like that with my kids.

THE COURT: Why not?

THE WITNESS: I don't want to make my kids drug addicts.

THE COURT: What makes you say there were drug addicts there?

THE WITNESS: I know.

THE COURT: How do you know?

THE WITNESS: I was there 24 hours in the building.

THE COURT: What did you see?

THE WITNESS: I could see in the lobby when they come in, shaking hands and they transfer the drugs one to the other.

THE COURT: That is what a witness should testify

to.

When you say "drugs," that doesn't mean anything.

You have to give me details, information.

Gentlemen, 2:15 promptly.

Will you announce a recess until that time.

(Luncheon recess.)

2:15 P.M.

THE COURT: Please continue.

R A F A E L S I F O N T E resumed.

THE COURT: Father, would you please say this to the witness.

When a person is called to the witness stand to give testimony under oath, matters of the witness' own personal knowledge are important and that calls not for a conclusion by the witness of a given situation but the details that prompt the conclusion.

(Pause.)

THE WITNESS: Yes.

THE COURT: Proceed, Mr. Morris.

DIRECT EXAMINATION (continued)

BY MR. MORRIS:

Q Mr. Sifonte, you started to testify that you had a problem with respect to drugs and raids by the police, is that correct?

A Yes.

Q Would you tell us what occurred in or around 1973 with respect to that?

A In 1973 was the first raid in the building.

Q When did that occur?

A October.

Q October of 1973?

A Yes.

Q Would you tell the Court what happened on that occasion?

A At that time the detectives came to that apartment, they knocked on the door, they ring the bell, nobody answer. A lot of people were inside the apartment. They bring crowbars and stuff like that and they break down the door.

Q In other words, they broke down the doors?

MR. DOUW: This is not a personal observation, is it?

THE COURT: Did you see this?

THE WITNESS: No, sir.

Q Tell us what you saw.

A I came downstairs to talk to the doorman. He told me that a lot of undercover men went upstairs.

Q He told you what?

A That police, plainclothes police, they went upstairs. I asked him what apartment and he said he didn't know.

I went upstairs to my apartment. I saw the lights all over the terrace. I stay home.

The next day -- they don't call me up. The

next day I came down and they told me what happened in that apartment.

Q Did you see the door?

A I replaced the door myself.

Q Tell the Judge what you saw, what the door looked like you saw.

A The door looked, it is no good. It was on the floor.

Q It was on the floor?

A It was on the floor.

Q It was on the floor.

A Yes. They break the cylinder on the door completely.

Q And the door was completely broken?

MR. DOUW: I don't want to complicate his account of it, but there are a number of things I think he is giving a secondary account of.

THE COURT: I think we better let him go ahead and then on cross-examination you can develop it and then make your motion to strike. That is the easiest way to handle it.

MR. DOUW: Thank you, your Honor.

Q When you came and saw the door the next day, would you describe to the Court what the door looked like?

A The door looked bent completely. I don't have another door to replace it. I put in a new lock and I lock the door. The undercover police, they arrest everybody in the apartment.

Q Was the door off its hinges?

A Yes.

Q It was off the hinges?

A Yes.

Q Did you then replace the door on the hinges?

A That's right.

Q You referred to the police. Were these uniformed policemen or were they undercover policemen?

A Undercover policemen.

Q Did you know them?

A No.

Q How did you know they were undercover policemen?

A They went to see me first.

Q Did you know who they were?

A Yes. They came with a shotgun, revolvers, and things like that.

Q Were there any other raids that occurred or arrests that occurred in this building?

A Two more.

Q Tell us what occurred at those.

THE COURT: Give us the dates.

THE WITNESS: I don't remember the dates.

THE COURT: About when?

THE WITNESS: The last one was December 28, 1973.

THE COURT: Last December?

THE WITNESS: Yes.

THE COURT: Three days after Christmas?

THE WITNESS: Yes.

Q Would you tell us what happened?

A Well, I was working that day in my office. Undercover came to see me and they asked me if I had a master key for the apartment. I asked them what was going on, I had a key.

They asked me they had a raid in the building. My answer was go and ring the bell.

They went up and rang the bell for the first time and nobody opened the door. The second time they sent somebody else, I don't know who, they ring the bell and open the door and arrested people inside the apartment.

Q Did they take the people away?

A Yes, two persons.

Q Were there any other raids at about that time?

A One more.

THE COURT: When?

Q When did that occur?

A I don't remember.

Q About when was it?

A I don't remember. I don't remember whether it was the beginning of this year or the end of last year.

Q It was either in January of 1974 or December of 1973?

A Something like that.

Q It was around that time?

A Around that time.

Q Tell the Judge what occurred.

A Well, that day I came here downtown to 57th Street because I got another case. When I came back to the building the doorman told me that the cops are looking for me.

I said, "What about?"

He said, "Well, they want to get in one apartment but they no got a key."

I don't say nothing to him. I stay in the lobby. The cops, they came down with a person in handcuffs.

Q A tenant in the building in handcuffs?

A Yes.

Q You say them go by in the lobby?

A Yes.

THE COURT: What was the name of that tenant?

THE WITNESS: I don't remember.

MR. MORRIS: Your Honor, may I respectfully indicate to the Court that this witness stated to me before he took the witness stand that he was afraid to give the names and apartment numbers of the tenants because of the possibility of reprisals against him should he give that testimony. He specifically requested that I should not ask him the apartment numbers and the names of the tenants because of his fear of reprisal.

THE COURT: That I can understand having lived long enough to know that these things do go on throughout city, in fact throughout our nation, but you have to remember that I have to keep in mind the rights of the other side. They have a perfect right to be able to check and double-check on anything that a witness says. While I don't think in this case they might throw into issue that particular episode, if they were to demand further information, I don't know what I will rule, but I want you to know that I have both sides to consider.

Q During the time you worked as superintendent you were in the building all the time, weren't you?

A Yes.

Q Have you had occasion to observe people drinking alcohol and under the influence of drugs?

A All the time.

Q All the time?

A All the time.

Q Did you observe this in the lobby of the building?

A Yes, sir.

Q And in various other parts of the building?

A In the front of building, the back, the lobby, all over.

Q Was there an occasion to observe noises and fights in the building?

A Yes.

MR. LAND: Your Honor, Mr. Morris is leading this witness.

THE COURT: There is no doubt about it. I don't want to butt in all the time. I will say for the record there have been occasions when counsel have been most forebearing and that they could have arisen and they could have registered violent objection possibly, but they have refrained from doing so and I do not want to have the record indicate that the Court has any fault to find with counsel on that score, certainly.

You have been patient, but there are occasions when you must rise and you owe it to your clients to take a firm position.

Mr. Morris, I know that with a witness who has to use an interpreter it is not as free-flowing as otherwise, but I do think you are leading and I think you ought to avoid it. For instance, "What can you tell us about drug use?" "What can you tell us about alcohol?"

That doesn't lead at all. It directs his mind to the particular matter you want developed.

When you give it to him the way you do you state it as a conclusion and as a fact and all he has to say is "yes."

Watch it, please.

MR. MORRIS: Yes, your Honor.

Q Did you receive complaints from tenants in the building?

A Yes.

Q Would you tell the Court what those complaints were about and what they related to?

A Complaints about parties between Monday and Fridays. Week days, in other words. Fights in the hallways, the lobbies, the front of the building.

THE COURT: May I interrupt.

You say fights in the building?

THE WITNESS: Yes.

THE COURT: How often did those fights take place?

THE WITNESS: Mostly weekends.

THE COURT: Were the fights between tenants in the building?

THE WITNESS: Visitors.

THE COURT: Visitors and the tenants?

THE WITNESS: That's correct.

THE COURT: Most of these fights took place over the weekends?

THE WITNESS: Yes. They start in the apartment and then they finish in the hallways, in the lobby, any place.

THE COURT: Would it take place in the evening or during the day?

THE WITNESS: Any time.

THE COURT: How serious did these fights become?

THE WITNESS: They went at each other with a knife.

THE COURT: Most of the time with a weapon or some weapon or was it just loud talk?

THE WITNESS: One time I saw with the knife.

THE COURT: Most of the time it was just loud talk?

A Oh, yes. Most of the times.

THE COURT: What else did you see? Did you see them pushing one another, for instance?

THE WITNESS: I can't see a lot of things. Like you say -- ask me again.

THE COURT: Most of the time these fights were just loud talk, angry talk?

THE WITNESS: Yes.

THE COURT: There were some occasions when someone had a weapon or a club or a piece of wood, anything lik- that?

THE WITNESS: Yes.

THE COURT: But not very often?

THE WITNESS: Not very often.

THE COURT: Did you ever see any blood on the people?

THE WITNESS: Yes.

THE COURT: Very often or once in a great while?

THE WITNESS: Once in a while.

THE COURT: Now we have a better picture.

Proceed.

Q Do you know whether there was any prostitution in the building?

A Yes.

THE COURT: Don't lead him any further.

What can you tell us about that? What do you know of your own knowledge?

Tell it to him in Spanish, Father, ple[illegible].

(Pause.)

A My impressions that I am in the building, I have to go to the apartments, repairs, make repairs. I can see a lot of apartments, there is a lot of traffic, see lots of men, something going on.

THE COURT: I am a Judge and that doesn't help me. I think I know what you mean. That is not evidence.

When you say prostitution , that, the law says, I cannot listen to. But if you tell me why or for what reason you say there was prostitution, then I can listen to it.

Do you understand the difference?

THE WITNESS: I understand.

THE COURT: You saw men going to an apartment. One apartment ?

THE WITNESS: I could say one.

THE COURT: How many men?

THE WITNESS: Five, six, seven.

THE COURT: All at one time?

THE WITNESS: All at one time.

pgb-13 Sifonte-direct

THE COURT: What else did you see about prostitution?

THE WITNESS: I don't know what you mean.

THE COURT: You are the one who is telling me prostitution and I say why? What makes you say prostitution, and all you tell me is that a group of men went into the apartment. What is wrong with that?

THE WITNESS: Let me answer you. If a woman live alone in one apartment and she has six or seven more with her and traveling men in and out --

THE COURT: That is different. You didn't say that.

What else do you want to tell me? What else prompts you to say that prostitution was going on in that apartment other than what you have already said.

Put that to him, Father.

(Pause.)

THE WITNESS: I know because the people comment in the building what is going on. People talk.

THE COURT: You mean the tenants?

THE WITNESS: The tenants.

THE COURT: Did they refer to this particular apartment?

THE WITNESS: Mostly.

THE COURT: To that particular apartment?

THE WITNESS: Yes.

THE COURT: Proceed, Mr. Morris. I have had this kind of thing all throughout my judicial life and I seem sometimes to be able to pose the questions that bring out what people want elicited. You have to talk to them in simple terms, but I hope that whatever I elicited is what you were endeavoring to bring out so we can drop the matter and go to something else.

MR. MORRIS: Yes, it certainly was, and I appreciate your Honor's assistance.

THE COURT: It is all right.

Q In the summertime do people congregate in front of the building?

MR. LAND: Your Honor, again we have this leading question.

THE COURT: He already has said that.

You have already brought out that people congregated. He said it was the visitors and tenants. He said it was all over the building. It was all-embracing, the back, the floors, the lobby, and in front of the building.

Q During what hours did this occur? What time of the day?

A The most I can say after four o'clock.

Q Did it occur late at night?

A Yes.

Q Into midnight and one and two in the morning?

A Yes.

THE COURT: You are leading again. Change it to say, "Until what time?" And he gives one and two o'clock.

How late did this go on, this gathering?

THE WITNESS: On weekends very late.

THE COURT: When you say "late," what do you mean?

THE WITNESS: One, two, three o'clock in the morning.

THE COURT: What was happening? What would they do?

THE WITNESS: They bring radios and tape recorder in the front of the building and they start drinking and dancing and that's it.

THE COURT: There is your picture.

Next.

Q With respect to the apartments, would you tell us the condition some of the tenants keep their apartments in?

A We got a few that have dirty apartments. We refuse to go into the apartment.

Q When you say "dirty apartments," describe to the

Court what you mean by that.

A People have too many dogs in the apartment. They no got time to bring them down. They do everything in the apartment.

Q Are there smells in the apartment?

A Smell terrible, yes.

Q Tell us what else.

A Between me and the handyman we refuse to go in this apartment. They have a complaint for three or four months. We don't get in the apartment.

THE COURT: That I don't understand. What do you mean? You mean theneighbors the other tenants. don't want to go in?

THE WITNESS: Me. myself.

THE COURT: You don't want to go in?

THE WITNESS: That's right.

THE COURT: Because it is so dirty?

THE WITNESS: Dirty, and the smell terrible.

Q Are there any other things in the apartment that you see?

MR. LAND: Is he referring to one apartment?

THE COURT: That is what I was going to ask next, but I figur e if we don't ask you will ask. There are three of you. Divide it into three parts: You

attack on prostitution, you on gathering in large groups, and the other one take another angle. It is all there. Divided it up. Don't be repetitious.

Q In connection with the dirty apartments, have you had any experience with roaches and other things of that sort?

A Yes.

Q Tell the Court what you found with respect to that.

A When these people, they got roaches, I send an exterminator, because we got to exterminate eve-y week. But they want to keep the apartment the way it is because they refuse it.

THE COURT: They refuse to let him in?

THE WITNESS: That's right.

THE COURT: How do you know there are roaches in there?

THE WITNESS: You can see from under the door, the hallways.

THE COURT: That is what you call evidence.

Q With respect to these apartments --

THE COURT: How many are like that? How many dirty apartments like that?

THE WITNESS: I got about five.

Q Are some of the apartments occupied by a large number of people?

A Yes.

Q Would you tell the Court about that?

THE COURT: Which apartments?

Q Which apartments?

THE COURT: I don't understand you. You said are some of the apartments occupied -- you mean throughout the building?

Q In the building are some of the apartments occupied by large numbers of people?

A I can't understand the question.

THE COURT: Father, help out.

(Pause.)

A That depends on what kind of apartment. We have three bedroom and two bedroom.

THE COURT: Are there some apartments in the building where there are more people in the apartments than is provided for?

THE WITNESS: That's right.

THE COURT: Do youunderstand the question?

THE WITNESS: Yes.

THE COURT: What is your answer?

THE WITNESS: Yes.

Q Would you tell the Judge about those apartments?

A For example, a studio apartment is to be for one person. Sometime we have three or four persons in the apartment.

Q Living in the apartment?

A Yes.

Q Who are these additional persons? Are they authorized to go in the apartment --

THE COURT: There is one thing I have to ask you. Forgive me. This way we can make progress.

Break down your polysyllabic expressions. We know you have a gift of good language. Talk to him "market place English,"simple terms. He will understand you.

MR. DOUW: Again, personal observation on this point, your Honor.

THE COURT: Of course.

Did you see in the studio apartments you just referred to three or four people occupying it? Did you see that with your own eyes?

THE WITNESS: Yes.

THE COURT: How long did they live in there, these three or four people in that studio apartment?

THE WITNESS: Since I opened the building, 1972.

THE COURT: Until you left?

THE WITNESS: Until I left. I don't know now.

THE COURT: Of course not.

How many studio apartments were occupied by more than two people?

THE WITNESS: I can't remember.

THE COURT: About how many?

THE WITNESS: About ten.

THE COURT: Did you see these people in those apartments yourself occupy them?

THE WITNESS: Yes.

THE COURT: Let's take it slowly.

There were about 10 studio apartments that had people in it, more than two in each one of those studio apartments.

THE WITNESS: Let me say something. A studio apartment you have a family that live, a wife and husband too, two persons.

THE COURT: In the studio apartment?

THE WITNESS: Yes.

THE COURT: I am not asking you about that. I am asking you about studio apartments where there were more than two people. How many studio apartments were there with more than two people in it?

THE WITNESS: I can't figure it out. Five, ten.

THE COURT: You don't know?

THE WITNESS: No.

THE COURT: You don't know exactly?

THE WITNESS: No.

THE COURT: Are you sure there were at least five?

THE WITNESS: No five. Three or four.

THE COURT: Three or four what?

THE WITNESS: Persons.

THE COURT: Are you sure there were five studio apartments with more than two people in each?

THE WITNESS: Between 10 and 5.

THE COURT: How many people were in each one of these studio apartments?

THE WITNESS: Two or three.

THE COURT: Two is all right. I don't want you to tell me about two. Two is all right in a studio apartment.

THE WITNESS: More than two.

THE COURT: How many were there?

THE WITNESS: I would say three persons.

THE COURT: Did you see those three persons live there?

THE WITNESS: Yes.

THE COURT: What other numbers of occupants

were there in other studio apartments more than two?

THE WITNESS: We have a few more apartments like that.

THE COURT: But you see, I want you to tell me how many people were in those studio apartments butonly the studio apartments where there were more than two people.

THE WITNESS: I answered you before. We have ten apartments where more than three persons live in the apartment.

THE COURT: More than three.

THE WITNESS: More than two and three.

THE COURT: Did you see those people in each one of those studio apartments living in there?

THE WITNESS: Yes. Because most of the time they go to see me or my wife to open the door, people that I don't recognize in my life.

THE COURT: Next question.

End 1 PM

Q Did you have a situation in the building with respect to fires and the Fire Department?

A No.

Q Nothing --

THE COURT: Situation, he doesn't understand that. I think you ought to revamp it. What is it you want -- fires?

Q Have there been fires in the building?

A One fire only, last year.

Q Tell the Court about that.

A It was a fire in an apartment on the second floor.

THE COURT: I can't draw anything from that. I live in a pretty good place, thank God, and there have been fires there. So one fire doesn't mean anything. I thought you were trying to bring out the frequency of such incendiary tendencies. But one fire doesn't establish it.

Q Would you tell the Court about the situation with respect to graffiti in the building?

A Graffiti it got stairways, some floors and outside the building.

THE COURT: That is very general. Was it all over the building or just a part of the building?

I wasn't there. I don't know how much of the outside was covered with graffiti.

THE WITNESS: Three or four walls.

THE COURT: That is telling me something. Now, inside the building, what about that?

THE WITNESS: Stairway and a few floors, not all over.

THE COURT: All right.

MR. MORRIS: That's all.

THE COURT: Cross-examine.

CROSS-EXAMINATION

BY MR. LAID:

Q Mr. Sifonte, the prostitute who resides in the building, or incidents of prostitution --

THE COURT: Try to break it down into simple language. You, too, have a more than nodding acquaintance with Thomas Baddington McCauley but it is no use to use it on this witness.

Q Mr. Sifonte, you talked about the prostitute, do you remember that?

A Yes.

Q Is that in just one apartment, just one apartment?

A Yes.

Q You talked about an apartment where there is a lot of dog dirt in there, right?

A Yes.

Q Just one apartment?

A Say again.

Q Just one apartment that has a lot of dog dirt in it?

A We got more than one.

Q More than one with dog dirt?

A Yes.

Q How many?

A I would say about five.

Q Did you report your knowledge of the prostitute to the building manager?

A No.

Q Did you report it to the police?

A No.

Q Did you report it to anybody?

A No.

Q As to the apartments with dog dirt in them, did you report that to anybody?

A My office.

Q Who?

A Hatchton Management.

Q Who at Hatchton Management?

A I don't remember the name now, but I report to them and they send a letter to the tenants. They send a letter to the tenants.

Q That's all they did, to your knowledge?

A They send the first, the second, the third. They don't listen they go to court.

Q They went to court?

A The third letter, yes. They sent a first letter, the second and the third letter.

Q Yes?

A Then if they don't do nothing we go to court with the tenants.

Q Did they take the tenants to court with the dirty apartments?

A You are talking about dirty apartments. I was talking about dogs.

Q The ones with dogs, did they take them to court?

A No.

Q They didn't take them to court?

A No.

Q The studio apartments that have too many people in them, did you report that to anybody?

A No.

THE COURT: How come? Why not?

THE WITNESS: Well, I am the kind of person that doesn't want to be involved in things like that.

THE COURT: Next question.

Q When did you first start to work at Leader House?

A I start August 15, 1972.

MR. LAND: No further questions.

THE COURT: Thank you.

MR. GOLD: I have no questions.

THE COURT: Mr. Douw?

MR. DOUW: A few questions, your Honor.

CROSS EXAMINATION

XXXX

BY MR. DOUW:

Q Mr. Sifonte, I believe you told us about three drug raids while you were superintendent and the first one was in October, 1973.

A Yes.

Q Do you understand? Now, you said that the detectives, police detectives, came into the building?

A Yes.

Q Did you see them come into the building yourself?

A No.

Q The doorman told you, is that correct?

A Doorman, yes.

Q Did you see the detectives at any time during that particular incident, during that time?

THE COURT: Counsel is going to, and properly so, if it is warranted, lead up to a motion to strike. I think we had better use the Father to be sure you have answers that you want.

(Question interpreted)

A Yes.

Q When did you see the detectives, at what point?

(Question interpreted)

A They working in the building for a long time.

THE COURT: Undercover?

THE WITNESS: Undercover.

THE COURT: What do you mean they work in the building?

THE WITNESS: They go up and down and watch what's going on.

THE COURT: There it is.

Q And they're undercover men for the Police Department, is that correct?

A Yes.

Q Did you see these particular men during the raid in October, 1973?

A No.

(Question interpreted)

A No, not the same undercover, different men.

THE COURT: But the lawyer wants to know -- Father, come in on this one. You enter into helping us get what he is trying to say.

The attorney is trying to find out what you know personally with regard to the raid in October, 1973, not what someone else told you about it.

(Question interpreted)

THE COURT: For instance, did any of the undercover men in that raid talk to you about it?

THE WITNESS: No.

THE COURT: Who talked to you about it -- tenants?

THE WITNESS: The next day.

THE COURT: Who? I don't care when. What happened the next day?

THE WITNESS: Are you talking about the first raid?

THE COURT: That is what he is talking about.

Q The first raid you mentioned, yes.

A The next day.

THE COURT: Who talked to you the next day -- undercover man?

THE WITNESS: No. Friend of this apartment. They arrest everybody. They leave the apartment alone. They went to see me to repair the apartment.

THE COURT: Who was that -- a tenant?

THE WITNESS: A tenant.

THE COURT: Then you went up and repaired it?

THE WITNESS: Yes.

THE COURT: And you told us how you found the door.

THE WITNESS: That's right.

THE COURT: And you had to put on a new door?

THE WITNESS: A new door.

THE COURT: All right.

Q My question is -- I want Father to translate this question -- have you told us the full extent of your knowledge about that particular incident?

(Question interpreted)

THE INTERPRETER: He says he has no more to

say on it.

THE COURT: Nothing more to say on that.

Q Now, Mr. Sifonte, you told us about a second raid on December 28, 1973.

A Yes.

Q And I believe you said that two persons were taken away?

A Yes.

Q Did you see the two individuals taken away?

A Yes.

Q Who took them away?

A The undercover.

Q Were those men that you knew to be undercover agents?

A Yes.

Q Did you know the tenant that was taken away that time?

A Yes.

MR. DOUW: I want you to translate this.

Q Do you know of your own personal knowledge -- I withdraw that.

How do you know that that person was connected with drugs, the person taken away?

(Question interpreted)

A First of all, before the raid, the undercover they went to see me in my office. They ask me if I got a master key for the apartment. My answer is yes. And they told me if I can open such apartment. I said no, I can't go and open an apartment because I no got -- I can't, only for tenants I open it. In emergency I can open the apartment any time. They went upstairs, they ring the bell, they open the door, they grab the people.

THE COURT: Were you there when they went upstairs?

THE WITNESS: No, I stay in the lobby.

THE COURT: Then they came down later?

THE WITNESS: Yes.

THE COURT: When?

THE WITNESS: About two hours.

THE COURT: When they came down, what did you see?

THE WITNESS: Men with handcuffs.

THE COURT: And that was tenants?

THE WITNESS: Tenants.

Q The third raid that you talked about you said was December, 1973, or January, 1974.

A Yes.

Q I believe you said that the doorman told you that the police were looking for you, is that correct?

A Yes.

Q Did you see the police after that?

A Yes.

Q You did. Was that before or after the raid?

A After.

Q After. And what did the police tell you?

A Nothing.

Q Nothing?

A No.

MR. DOUW: Father, translate this.

Q Have you told me the complete story about that particular raid or is there anything further you should add?

A Yes, complete story.

Q You have told me the whole story of what you know?

A That's right, yes.

Q Mr. Sifonte, you talked about witnessing fights usually on the weekends, I believe.

A Yes.

Q Do these fights involve tenants?

A Yes.

Q You work for the Olnek Company, don't you?

A Yes.

Q Do you report these incidents, these fights, to the management, to your boss?

A No. The tenants report to me and then I tell them to send a letter to the company and then the company send letters back to the tenants, the answers, you know.

THE COURT: Is that what the company told you to do?

THE WITNESS: Yes.

Q Mr. Sifonte, when you see a serious fight, where there is blood, you said you see that occasionally, do you remember whether those involve a tenant sometimes?

A Yes.

Q They do involve a tenant?

A Yes.

Q Do you report those to your boss?

A Yes, myself.

Q When you see too many people in an apartment, like three or four people in a studio, or whatever, do you report that to your company?

A No.

Q You do not?

A No.

Q Why, sir?

A It's no my problem. I don't want to be involved in things like that.

Q You don't want to be involved in things like that?

A No.

MR. DOUW: I think I will need your help on this one, Father.

Q Did your company ever give you instructions about what you should report to them or what you need not report to them?

A Yes. I understand that. Yes.

Q What insturctions did your company give you while you were superintendent?

A That depends.

Q Did your company ever instruct you to report incidents which involve tenants being disorderly?

A Oh, yes.

Q Did they tell you to report all incidents of tenants being disorderly?

A Not all.

Q What incidents did they tell you to report?

A For example, the big problems in the building.

Q Big problems?

A Yes.

Q And what do you mean by "big problems"?

A If tenants in the building start fighting with neighbors or something like that, I will take the phone to call my company all the time because the neighbors are fighting. It's impossible.

MR. DOUW: Could you read the answer back?

THE COURT: I think the best way to do it is to get him to repeat it slowly.

What did you say? Say it slowly.

THE WITNESS: If any tenant they have any problem in the apartment or neighbors, they start fighting for no reason. I can't take my phone to call my office because they start fighting.

Q So you don't report such incidents?

A No.

THE COURT: He asked you what do you think is a big matter to be reported to your company. What do you mean by that? Such as?

THE WITNESS: For example, shooting in the building.

THE COURT: Shooting. I should think so. What else?

THE WITNESS: Things like that.

THE COURT: Things like that?

THE WITNESS: Yes.

Q Did you ever report to your company that certain apartments were overcrowded?

A With people?

Q Yes.

A Yes, one time.

Q One time?

A One time.

Q What were the circumstances o- that one time?

(Question interpreted)

A I don't remember.

Q You don't remember?

A I don't remember.

THE COURT: So that except for one time you never reported to your boss that an apartment or which apartments in the building were occupied by more people than there should be in those apartments; you did not report that?

THE WITNESS: No.

Q Did your boss or your company ever tell you to report that particular kind of thing?

THE COURT: Let me try it.

Did your boss, anybody from your company, ever say to you -- what is your first name?

THE WITNESS: Rafael.

THE COURT: "Rafael, if any apartment has got more people than belong in there under law, you report it to me"? Did they ever tell you that?

THE WITNESS: Yes.

THE COURT: Well, why didn't you report it?

THE WITNESS: In that kind of building I can't report everything. I can't.

THE COURT: There is his answer. You see a free-flowing cross on that set you back a bit, but that is the way it is. You can't win them all.

Next.

Q Mr. Sifonte, did you ever collect rent from the tenants?

A No.

Q Did your company ever instruct you, give you instructions, for you to tell your doormen that they were to announce all visitors when visitors came to the door?

A Yes.

Q Your company gave you such instructions?

A Yes.

Q Did you do that?

A Yes.

Q You did that?

A Yes.

Q When were those instructions given? When did your company give you those instructions, if you recall?

A Since I open the building.

Q Since you opened the building?

A Yes.

Q And did you make it a practice --

THE COURT: What do you want?

MR. DOUW: I wanted to know whether the doormen did it as a practice.

THE COURT: Did they do that, did they announce the people? What happened with that?

THE WITNESS: Yes, they announced the people.

THE COURT: Every time?

THE WITNESS: We got a big sign.

THE COURT: What did the sign say?

THE WITNESS: All visitors must be announced. Not by the doorman. We have an intercom system.

THECOURT: I see. So that when a person

came into the building who wanted to go to a tenant, they would have to ring the bell?

THE WITNESS: Yes.

THE COURT: Because the door was locked?

THE WITNESS: Locked.

THE COURT: Is that what you wanted?

MR. DOUW: That is what I was after. Thank you, your Honor.

Q Mr. Sifonte, you said that there were a few apartments which were extremely dirty.

A Yes.

Q And did you say that you did not go into those apartments?

A Yes.

Q And did I understand you to say that you did not like to go into those apartments?

A Yes.

Q And was that the reason why you did not go in?

A Yes.

Q Did you instruct any other workman in your building to go into those apartments?

A No.

Q Did your company --

THE COURT: From that I might be compelled to conclude that what revolted him he didn't think he should subject anybody else to the same revolk. He seems to have had a terrible reaction and for him to have sent somebody else in there would have been a little bit unfair, wouldn't it, if we are to accept his testimony?

However, he said he didn't send anybody else in.

Q Did your company ever instruct you or say that you had the right to go into apartments under certain circumstances?

A No, we have inspector ever week in the building.

Q Who is the inspector? Is that from your company?

A My company. She make reports.

THE COURT: Did you tell that person about the dog trouble in the apartments?

THE WITNESS: All over the building.

THE COURT: What did she say? What did she tell you to do about that?

THE WITNESS: In that case, there is nothing I can do about it.

THE COURT: I asked you a simple question.

What did the inspector tell you to do about the dirt from the dogs in the apartments? Did she ever tell you to do anything about it?

THE WITNESS: No. She sent a letter to them.

THE COURT: That's it. But nobody went into the apartments?

THE WITNESS: No.

THE COURT: There it is.

MR. DOUW: Could I have just a moment, your Honor?

THE COURT: Yes, sir.

(Pause)

MR. DOUW: No further questions.

THE COURT: Anything further, Mr. Morris?

MR. MORRIS: No.

THE COURT: You did all right. I don't say what I am going to do with your testimony, but you speak English better than I thought. Mr. Morris was right.

Off the record.

(Discussion off the record)

THE COURT: On the record.

Thank you, Father Farrelly for helping us.

We appreciate it very much. I am in your debt not only for what you did but for the kind spirit you demonstrated in the building.

(Witness excused.

THE COURT: Few minutes recess.

(Recess)

THE COURT: Please proceed.

MR. MORRIS: Mrs. Dinah Sours.

M R S. D I N A H S O U R S, called as a witness by the plaintiffs, having been first duly sworn, was examined and testified as follows:

THE COURT: Mrs. Sours, please follow two rules. I am sure you are going to be on the stand for more than just a few minutes.

One, keep your voice up. They are entitled to hear you. You happen to have a soft-speaking voice. You may have to start hollering. They have to hear you . They are entitled to it.

Secondly, and equally as important, please, don't make speeches. If you are asked about a condition, you have to describe it. "I saw such and such." That may include 100 things or only two things, but when you were born, there is one date. It does not call for the place where you were born or the names of your parents. So stick to the particular question that is asked. They know their business and they will get what they want by the questions they put to you.

If they don't they will figure out another way of reframing the question.

Do you understand that?

THE WITNESS: Yes.

THE COURT: Proceed.

MR. MORRIS: With this witness, we will not have a language difficulty.

THE COURT: I hope not.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mrs. Sours, were you born in this country?

A No.

Q Where were you born?

A In England.

Q How long have you been in this country?

A 22 years.

Q Are you married, Mrs. Sours?

A Yes.

Q What is your husband's name?

A John Sours.

Q What is his occupat8on?

A He is a physician. He specializes in psychiatry and is a child analyst.

Q Where do you live?

A 120 West 88th Street.

Q Is that a brownstone that was rehabilitated in the West Side Urban Renewal area?

A Yes.

Q Do you have children?

A Yes.

Q Would you tell us how many children you have, what their names are, and how old they are.

THE COURT: We don't need the names. Unless you need it there is no reason why the children's names should be in the record.

Q How many children do you have?

A Three.

Q Give us their ages, please.

A 15, 13 and 11.

Q Would you tell us whether the children are boys or girls?

A The 15-year old is a boy and the other two are girls.

Q When did you move into the West Side Urban Renewal area?

A We moved in in September of 1969.

Q Where did you live before that?

A We lived in Woodcliff Lake, New Jersey.

Q What was the address?

A Highview Avenue.

Q Was that a private house?

A Yes. We owned the house.

Q How long did you live in Woodcliff Lake, New Jersey?

A Five years.

Q Describe that community for the Court.

A It was all white, middle class, upper middle class, very dull.

Q That is a suburb?

A Yes. I would say it is 45 minutes from New York City. Many of the men there commuted to the city.

Q Would you tell the Court why youleft the house you owned in Woodcliff Lake, New Jersey and moved to the West Side Urban Renewal area?

A There is more than one reason.

First of all my husband was getting tired of commuting.

Also we were discouraged with the community. We didn't feel it was a very good community in which to bring up the children. They were not getting a realistic view of life in the world in this type of community.

We had heard about the West Side Urban Renewal District from friends. We also liked New York City very much. We came into the city very much for the cultural activities andother things that the city has to offer.

Q Were you also interested in moving into an integrated area as distinguished from an all-white area?

A That was one of the reasons we left. We wanted to leave and have the children grow up in a more realistic type of world, where there was more racial integration and various economic levels and all different types of people.

Q Did you therefore investigate the area before you moved in?

A Yes. We had three friends --

THE COURT: There is a perfect example. Did you investigate the area?

THE WITNESS: Yes.

THE COURT: To what extent? That is a different proposition.

THE WITNESS: Yes, we did.

Q Tell us how you first heard about the area.

A Through three friends in particular, Dr. Talbot, Dr. Fine, Dr. Liebert, all personal friends of ours. They had already bought houses in the area and were very enthusiastic about it.

Q When you heard about the area did you and your husband make an investigation of the area by actually visiting it and looking around?

A Yes.

Q Would you tell us what you did?

THE COURT: There you can enlarge upon it. Now it becomes your duty as a witness to complete it and not to have the lawyers supply that which you should have given in the first instance.

THE WITNESS: I see.

THE COURT: Then it appears that that was not a major factor. If it had been you would have mentioned it. So you better embrace everything.

Go ahead.

A Yes, we did investigate it. We spoke, as I say, to all three of these friends of ours who had already bought into the area and had done a great deal of investigation into it and gave us a great deal of information.

My husband checked information from the local office. It was called something else -- I think it was the HRB office, something like that. Various papers and that type of thing.

We visited the street and looked. We spoke to our agent at great length.

Q Who was --

THE COURT: I don't think she is finished. Are you finished?

A Our agent was Austin Haldenstein.

Q What else did you do?

A That's about it.

Q Were you shown a single building or a number of buildings?

A Just one.

Q What was the one that you were shown?

A 120 West 88th was the one we were shown.

Q Who showed that to you?

A Austin Haldenstein.

Q When he showed it to you did you have a discussion with him with respect to the area and its future prospects and what the situation was?

A Yes. He described again the plans for the West Side to us and what we could expect in that neighborhood.

THE COURT: That is what we call a conclusion. It is your conclusion.

What did he say? You don't remember the exact words but what was the substance of what he said on that score?

That is distinguished from a witness' summation of what was said. We don't want that. The law doesn't permit that. The law says you are to say in words or sub-

stance what was said.

What did he say to you on that score in substance?

THE WITNESS: Well, he explained to us that the brownstones -- that the plan for the West Side was that the brownstones should be rehabilitated, those that were being sold, hopefully to families, and the corners that affected us particularly, inother words on 88th Street, Columbus and Amsterdam, would all be torn down and high rise buildings would be put up with a mixture of incomes and, you know, different types of people going in there.

THE COURT: Did he express a ratio or percentage of the different --

THE WITNESS: I know he told us in our units there was 70-30.

THE COURT: What was said about that?

THE WITNESS: That it would be a mixture of 30 per cent low income and 70 per cent moderate to high -- moderate income really.

Q Would you describe 120 West 88th Street at the time you first saw it. Tell us what condition it was in and describe the building.

A The house was very run down. It was in very bad condition. It was a rooming house. There were many complaints about it from the people in the area.

THE COURT: Careful. You were not asked that.

That building itself, not the complaints by people to you, you looked at the building, what did you see?

THE WITNESS: It was run down.

THE COURT: That is a conclusion. What? How was it run down? In what way? Walls were standing, were they?

THE WITNESS: Certainly.

THE COURT: Inside there was what?

THE WITNESS: It was in very bad condition. The house was split up -- it was a rooming house and there was a room in the front and back and they shared a bathroom. For this they were charged $80 or $90 a room. The rooms were not painted. They were peeling. The plumbing was a disaster. It was very dirty.

Q How many tenants were living in the building?

A Eight.

Q How tall is the building?

A It is only four stories. We don't have a basement or an attic. It is a very small building. It is 14-1/ feet wide and four floors high.

Q How deep?

A I am not sure. It is about 50 to 60 feet deep.

Q That is the building itself?

A Yes.

Q Is there a back yard?

A Yes.

Q What is that? A garden?

A It is a garden now. When we purchased the building it was just a concrete slab with all sorts of junk thrown out there.

Q As I understand it you then purchased the building. Tell us when you purchased the building.

A We bought the building in December of 1967 and we began renovation in 1968.

Q Would you tell us what you did after you took title to the building with respect to the tenants in occupancy in the building at that time?

A We realized that we would have to relocate them, which we did. We hired a man, ourselves, to work with the City agency involved in relocating people. He would find the apartments for them, take them to see them, and then if they agreed to move we paid for their moving and their first month's rent and any other expenses.

Q As a result of that procedure, did there come a time when all of the tenants were vacated from the building?

A Yes. By November of 1968.

Actually it was a month previous to that. We started renovation as soon as we could after they moved out.

Q During the period that you were relocating these tenants where did you live?

A We were in New Jersey.

Q You said in New Jersey?

A Yes.

THE COURT: Don't forget, Madam, anything you add, that is just that much more fuel for the other side and you will be on the stand an extra couple of hours while they delve into the volunteered material, as they would properly do.

Q During this period that the tenants were being relocated, did you do anything with respect to the designing of the proposed rehabilitation of the building?

A Yes. We hired an architect.

Q Who was that?

A Earl Coombs, lives in the neighborhood too.

Q What did he do?

A He drew up plans for us and we got them approved by the West Side Urban Renewal project, I believe it is called, or the City Agency which had to approve the plans.

Q After the tenants were relocated and the planning was approved, what did you then proceed to do?

A We began renovation.

Q Would you describe for the Court what occurred during the periods of renovation?

A Well, we discovered that we had to rip out the entire insides of the house. Everything was rotten, the plumbing, the wiring, even many of the beams, so we had to really take the house to pieces and start again.

THE COURT: I don't know what the relevancy of that is anyway. What difference does it make if they spent a half a million or even ten thousand? They have a right to that house. They had a right to possess it. They had a right to expect the fulfillment of the conditions that led them to take it up. Why give us all this talk about that. Forego it if you can.

Q Can you tell us when the renovation was completed and when you moved into the building?

A We moved in in September of 1969.

Q September of 1969?

A Right.

Q Would you describe the building at the time you moved in? Tell us the nature of the renovation and what was done.

A Well, we live in the top three floors as a triplex which is basically a room front and back again so we have more or less six rooms. Then on the ground floor -- at the time we moved in we rented the front room and my husband used the back room as an office.

Q For the practice of his profession?

A Do you want me to go into all that?

Q Yes.

A He was planning to, yes, and then subsequently we rented the front room for two years first to a law student and then to a teacher, and after two years my husband decided it would be a good idea to move his office over to the house to make --

THE COURT: Did the law student pay his rent?

THE WITNESS: Yes. The other one didn't, but the law student did.

So we renovated the front room, changed the front room again into a playroom since my husband sees children in his practice and to have two separate rooms, a playroom and an office, and so his plan was to use that floor for his office.

Q What is the nature of your husband's practice?

A He is a psychiatrist, a child analyst. He specializes in children, yes.

Q So that the patients that he treats are children, is that right?

A Not entirely, but to a large extent, yes.

Q Has your husband actually used the ground floor premises as an office from the time you moved in?

A Well, he found he could not practice there full time.

Q Tell us why.

A It is due to the fact that we have too many drifters and people hanging around the neighborhood who frighten the people coming in to his practice.

Q As a result of that what occurred?

A He is not able to practice there. He has to maintain an office in another part of the city and he uses it one morning a week now when he can see people who live in that area.

Q Did there come a time when he was unable to use the office at all?

A Yes.

Q Tell the Court about that.

A About six months ago we suddenly got an infestation of rats on the ground floor and they did a great deal of damage to the house and we investigated why they would suddenly appear like this and we were told that, you know,

it was to a large extent due to the fact that we are -- there are many, many sites around our house strewn with garbage and litter.

MR. DOUW: Objection.

THE COURT: Objection sustained.

We will have to strike that, Madam.

It is hard for you to understand, but that will have to be stricken.

At any rate, only so much as dealt with rats, that will remain. The reason assigned will have to be stricken. You can get that in in another way, but not through this witness.

Q Would you describe the conditions in the neighborhood at or about the time you moved into the building? That was in September of 1969?

A Well, when we moved in it seemed to be quite a pleasant street. Our street itself was pleasant. We had an active block association and the building across, directly across from us, the City-owned building, was almost empty . There were four families remaining in there and the street was quiet and pleasant. When we moved in the house was not finished. We had no troubles at that time.

Q Did a change occur in the neighborhood after

you moved in?

A Yes. About 1970, the spring of 1970, the buildings opposite us were occupied by squatters.

Q Did you observe the squatters occupying the buildings?

A Yes.

Q Would you tell the Court what you observed and what occurred at that time?

THE COURT: Mrs. Sours, there has been testimony already about squatters. There has been testimony about garbage. There has been testimony on very many points, the believability and the weight of which is up to me. My task is not easy.

You have a good command of the English language. Employ it to the extent that it becomes necessary in order to answer a question. You are now asked about squatters. I can't visualize anything much when you say squatters. What did you see? What did your own eyes behold? What did you hear with regard to them? What was their behavior as it came under your own scrutiny?

This kind of evidence has been woefully deficient. I am not asking you to supply the deficiency unless in so doing and doing it truthfully you can relate what is sadly lacking here.

If your answer, in other words, does prompt you to say something more than just squatters, enables you to tell us what you saw, I wish you would go into the greatest of detail and no one will interrupt you.

THE WITNESS: Do you mean as to how they affected us?

THE COURT: That is what I don't want right now. I want to know what condition with regard to squatters did you observe? What did you observe with regard to their behavior? "I saw this," and "I saw that."

THE WITNESS: I can tell you about their moving in.

THE COURT: Did you see anything after that?

THE WITNESS: IN the years following I have, yes.

THE COURT: That is what you are asked. Go ahead.

A They moved in one evening. It seemed it was overnight. We suddenly realized that something was going on because there was a great deal of noise and confusion. It really began -- after they had moved in, the neighborhood really seemed to be affected. We began to get more and more of these unpleasant people hanging around the corners and over the years it has been very noticeable. The buildings

are very badly in need of good management and repair.

As you say, the garbage is a very bad situation for us. There is a lot of purposeful irritation from them and annoyance.

For instance, they will come out and blow bugles and play music very, very loudly. Both my daughters and I have been spat on by people standing on the stoop. They have thrown garbage at us, and you know if you turn around to say anything to them they laugh, It is not that it is garbage falling out of the window mysteriously. I have seen them throw things at me.

They grab at my daughters.

Last fall my younest daughter and one of her friends -- she was taking her friend to a bus, and three of the fellows grabbed hold of her and her friend and told them they were going to rape them. And of course they burst into tears and were very upset. And my daughter, you know, begged them to let her go, and they came home and told me and I called the police and the police said they cannot do anything about it.

They have done things, for instance, last week I was walking along and a man came along and tried to grab me between the legs and I hit him and of course when I turned around he just laughed, you know, and walked on.

We constantly, every day, my daughter -- one daughter walks along Amsterdam to the subway. My other daughter walks along Columbus to the bus and every single day they have to put up with lewd comments made to them by these men and people grabbing at them. It is just a sort of daily abuse that we take in the neighborhood there.

THE COURT: Mrs. Sours, you have used the pronoun "they." You will have to embellish that because that can be anybody from anywhere in the world. When you said "they" in the course of your answer who were you actually referring to?

THE WITNESS: The men who live in these buildings and stand, you know, on the stoops and on the corners.

THE COURT: These people who you say grabbed at you or spat at you and so forth, are you ready to tell me under oath that they are the people who live in these buildings right adjacent to your own? Is that so or not?

THE WITNESS: It is.

THE COURT: So that this man who, to your own expression, grabbed you between the legs, do you mean to say he is one of those people?

THE WITNESS: I don't know which building he lives in. The person who threw the garbage I know where she lives and also there were several of them that spit at

us. The man who grabbed at me or tried to put his hand -- I had seen him in the neighborhood on Columbus Avenue, but I don't know which building he lives in.

THE COURT: There is an answer.

YOu have seen them before in that immediate area?

THE WITNESS: Yes.

THE COURT: And the children, did you see these men or is it their recital to you as to what took place?

THE WITNESS: When my daughter and her friend --

THE COURT: Yes.

THE WITNESS: They came home and told me about it.

THE COURT: Very well.

Q Where do your children go to school?

A My son goes to Trinity. One daughter goes to Fieldston and the other daughter goes to Alexander Robertson.

Q Where is that located?

A Central Park West at 95th Street.

Q So that other than the Fieldston they all go to school in the West Side Urban Renewal area?

A Yes.

Q And they are required to walk through the streets of the West Side Renewal area?

A Yes.

Q Do you have any difficulty with respect to your

building itself and any vandalism or damage done with respect to the building?

A Yes.

Q Would you tell the Court what occurred with respect to that?

A Well, since 1970, since the neighborhood has really started to go downhill, several things have happened to the house.

For instance, we have had the lamp ripped off the front of the house by our front door.

We had a paving stone thrown through the front glass of our front door after a meeting, -- if you like I will tell you which meeting.

THE COURT: You might as well.

A It was a particularly difficult meeting that we had.

THE COURT: Not too much detail.

A It was a CONTINUE meeting held at Columbia Grammar.

THE COURT: By the neighbors?

THE WITNESS: By CONTINUE, to which I belong.

THE COURT: We will come to that later.

Go back to your main theme about the building and the vandalism.

THE WITNESS: A window has been broken at the back. Also one day last summer when I was sitting in the back yard I got up out of the chair and a rock came sailing through and landed in the chair where I had been sitting, from the lot where there is a great deal of debris.

We have a lot of walking across the roofs and last fall some men tried to -- broke into our skylight and lowered a television antenna. Luckily we were in the house and chased them away.

THE COURT: Describe the incident and tell what happened. How did you chase them away and how did you hear them? Was your husband with you?

THE WITNESS: We were on our first floor, our living-room floor. My two daughters sleep on the top floor and so that floor was dark and that is where the skylight is and I guess they thought nobody was in.

We heard some glass breaking but that was not unusual in the neighborhood, so we didn't pay any attention at first. Then we heard some other noise which sounded very odd, so we ran upstairs and called my son to come and help.

We went in and through the skylight, glass was broken, and there were three men standing up there with a television antenna, they were apparently going to slide

down it, you know, so we yelled at them and called the police, and the police came, but of course they were gone by that time.

We often have people raoming back and forth across the roof of the house.

It is mainly things being thrown at the house, you know, rocks, and the windows broken.

Q What about the garden in back, have you cultivated a garden in back of the house?

A Yes.

Q And what occurs with respect to that?

A Actually that is quite good. We have had a little trouble with people climbing in, but rocks being thrown over from the lot.

Q What about the situation when you have to go outside and walk from your house to either Columbus or Amsterdam Avenue, would you describe the type of people that you encounter in the course of those journeys?

A Well, I think it's these men I described earlier who always make comments on people,who throw things and spit at us.

Q Do you find any people drinking?

A Yes, there is some drinking and some what appears to be drug transactions occasionally with money and something being passed. We did get the police on to one group down at the other end of 88th Street last -- I can't remember when it was. It was last year sometime. Another one of my neighbors, Mrs. Benesceu had seen quite a bit of this going on and she called the police and they did catch the men.

MR. DOUW: Objection, your Honor.

THE COURT: Yes, we will have to strike the latter part about the neighbor, what the neighbor saw, that portion is stricken.

All right. The most important thing to remember, madam, with respect to this type of testimony is what you yourself witnessed from your own eyes and heard with your own ears.

THE WITNESS: I see.

THE COURT: For instance, the type of men.

THE WITNESS: Yes.

THE COURT: You have lived. You are the mother of children. You ought to know when you are talking about men and describing them in group form, we can take that type of testimony even though you can't label every one of them as a rowdy or every one of them being ~~uncut~~ uncouth. You just gave us a general description and that's legal and it's admissible evidence. But that is just an example of what you saw with your own eyes and observed, you see. So confine yourself just to that.

THE WITNESS: Yes. Well, I have seen what appears to be drug transactions. Also --

THE COURT: You have gi-en me something on

that. You said you have seen the passing of money and something in exchange for the money. Isn't that what you said?

THE WITNESS: Right.

THE COURT: How frequently does that occur?

THE WITNESS: Oh, it's hard to say.

THE COURT: From your observation now, only what you have observed.

THE WITNESS: Maybe I have seen it five or six times, perhaps. That's a guess.

THE COURT: On five or six different occasions?

THE WITNESS: Yes.

THE COURT: Next question.

BY MR. MORRIS:

Q Will you describe the situation in the street outside your home with respect to noise and congregation of people late at night?

A There is a great deal of noise, particularly on weekends, and I frequently call the police after 11:00 o'clock at night.

THE COURT: Go into detail. That's a conclusion, a great deal of noise.

THE WITNESS: Well, from radios, singing, playing tambourines.

THE COURT: That is specific.

THE WITNESS: All right, here we go.

THE COURT: Let's see whether you know what I am saying.

THE WITNESS: They play tambourines, they blow bugles, they sing, they play their radios with the windows open very loudly, they shout at one another across the street. What else? I think that's as far as the noise.

THE COURT: When you say "they" you are referring to the --

THE WITNESS: To the people who live on our street.

THE COURT: When you say "frequently", what does that mean?

THE WITNESS: Weekends mainly, but sometimes during the week as well.

THE COURT: Until what hours does that last, beginning approximately when, generally?

THE WITNESS: Well, in the early evening.

THE COURT: And lasting until --

THE WITNESS: If the police don't come, I have been up once or twice at 3:00 in the morning and heard it going on and called the police again.

Sometimes the police come and will stop the noise, though. They do do something about it.

We have also had last June a man was shot across the street. I didn't see him shot but I saw them police coming and apparently that was something to do with drugs, too, in the building.

THE COURT: I will have to strike that.

What else, Mr. Morris?

Q Are there situations with respect to the water hydrants in the street?

A Yes. They often turn them on in the summer, you know, and have the water flooding down the street and shooting at the cars that go by, which I think is dangerous.

THE COURT: What do you mean by that?

THE WITNESS: They get a can somehow and put it over and as the car goes by they go like that and it squirts very hard at the car. We have a lot of children on the street and I am afraid that they will be hit.

THE COURT: Who does this business of shooting with water?

THE WITNESS: The children in the buildings on the corner.

Q Have you associated in any way with CONTINUE?

A Yes, I belong to CONTINUE.

Q You belong to CONTINUE?

A Yes.

Q Are you on their board of directors?

A No.

Q But you are active in CONTINUE's activities?

A Yes.

Q Would you tell us about a meeting that occurred with CONTINUE which was -- which had some difficult with some of the surrounding people?

A Oh, that was the meeting in, I think, October.

Q October when?

A October, 1970. It was held at Columbia Grammar School. We were to meet there and we found that when we got there there was a great deal of harassment going into the building to begin with by people --

Q Don't give us conclusions. Describe the situation that existed and what occurred from your own observation.

A Well, going in, when we were going into the building,people were shouting at us, you know, some of the people who were against CONTINUE were shouting at us

not to go in and what they thought of us, you know, and when we got in there they were making so much noise we couldn't hold the meeting. They broke in at one point to the meeting and were shouting in the meeting. They hit a man, who was a cripple, Mr. Pryor, knocked him down. He had to be taken home.

During the meeting they were trying to intimidate people by pretending to take photographs of them and in the end we had to finish the meeting and they called police and when we went out the street was lined with police cars and anybody who wanted, could be taken home by the police.

MR. MORRIS: That's all.

Your Honor, at this time Mr. Fried has come to complete his testimony. You may recall that he was requested to bring additional material to the Court.

THE COURT: I do, indeed. You understand, Mrs. Sours, that you will have to come back tomorrow morning at 10:00 o'clock and the lawyers on the other side will have a right to examine you.

THE WITNESS: That's all right.

THE COURT: You may leave, then, if you wish, madam, or remain.

MR. MORRIS: I think it would be better if

Mrs. Sours remains because I don't know how long Mr. Fried will be and therefore she should be here in the event we have some additional time.

MR. LAND: Can't we finish Mrs. Sours at this time and then go to Mr. Fried?

THE COURT: If you can get through with your cross.

MR. LAND: I don't think it will be that long.

THE COURT: We quit at 4:30. I leave it entirely to you. Have a short conference among yourselves and then make up your minds what you want to do. I can accommodate you.

MR. LAND: Your Honor, I would just as soon continue with Mrs. Sours and have Mr. Fried called as a witness in due course.

MR. MORRIS: Mr. Fried is a government official and he tells me he has a meeting tomorrow morning.

THE COURT: The Judge asked a question and once in a while you ought -- when I ask, gentlemen, what do you want, I will go along with whatever you want.

MR. LAND: I will go along with Mr. Fried.

THE COURT: It is immaterial to me. I don't want to embarrass anybody.

Madam, that is it. They were trying to avoid your coming back but I am afraid you will have to.

(Witness temporarily excused)

THE COURT: Mr. Fried, come on. By the way, gentlemen, you know there was supposed to be a conference today on a very vital matter. You know what I am talking about. It is the matter we took up in the robing room yesterday. It has to be resolved, since we are not resolving it now, I don't want Mr. Fried to have to come back again, we will have to resolve it tomorrow without fail.

Mr. Fried, come on up here. You look as though you have been doing some homework.

MR. FRIED: I was asked to bring some material.

THE COURT: You are continuing with your testimony under oath, Mr. Fried, as you know.

W A L T E R S. F R I E D, resumed.

MR. MORRIS: I understand, your Honor, that he was recalled for the purpose of producing some documents that he relied on and I was going to ask him to produce those documents.

THE COURT: I am awfully glad that this came

up because that is going to be a matter that we will have to discuss tomorrow with regard to that item that we took up. Let me just show you what I would prefer.

There was an item that was left unresolved when Mr. Fried left the stand. How much easier it would have been if the magazine, the books, the kind of material that you wanted him to produce was just turned over to his lawyer who in turn showed it to counsel and counsel would examine it and say "I don't want to ask him any more questions, forget it."

That hasn't been tried at all. There isn't communication between counsel on opposite sides. We will never get through with this case unless you start to communicate more than "How are you, Harry" and 'How are you, Jim."

That doesn't mean a thing. You are supposed to be battling opponents, but there is such a thing, and I have seen it in my 36 years as a Judge over and over and over again, where lawyers will come in with enormous amount of material and say "Will you look this over, my opponents, please, and let me have your reaction. Do I have to call given witnesses?"

The answer always is "No, let me examine it and we will make an exception."

Hours of time are saved.

No, we have to have Mr. Fried come back here, he has to get on the stand with a lot of books to show us he did read certain books. I think it's all unnecessary.

So to start it off right, I will let you finish this but I want you to know that I will not allow it again. You are duty-bound under the Court's direction, and this will be a direction from this moment on, that all material of that nature should be submitted to the opposite side to the end that an exception should be entered into and avoid the calling of witnesses and avoid the extention of examinations that have no real significance with respect to the total picture or the inevitable outcome of the litigation.

Gentlemen, your witness is here. You asked him to produce records. Now you go ahead.

CROSS-EXAMINATION CONTINUED

BY MR. LAND:

Q Mr. Fried, the last time we had cross-examination I asked whether you had read any books or articles on the subject of tipping and your response was, as I recall, yes. Is that correct?

A That's correct.

Q I asked you the title of some of these books and you were unable to recall them, is that correct?

A That's correct.

Q You informed me that the material which you read was in your private library in your home, is that correct?

A That's correct.

Q And that you would go to your library and pull the articles and books that you had read and bring them to court.

A That's correct.

Q And you have done that and you have brought those articles and books with you today?

A I have.

Q Will you please show us what you have brought with you?

THE COURT: First give us a list of them, will you, Mr. Fried? What's the first thing you wish to call to our attention?

THE WITNESS: First is Ends and Means of Urban Renewal.

THE COURT: Hand that to Mr. Land. Now, the next.

THE WITNESS: The next one is a report

issued by the Center for New York City Affairs of the New Schol for Social Research.

THE COURT: Next.

THE WITNESS: A book called Cities and A Race with Time.

THE COURT: The author?

THE WITNESS: The author is Jeanne R. Lowe.

THE COURT: Next.

THE WITNESS: The next is a report on some of the problems facing the City of New York which consists of reprints from the New York Times called, The Changing City.

THE COURT: Has it got a date on it, Mr. Fried?

THE WITNESS: It's a series that was from June 1st to June 8, 1969.

THE COURT: Thank you. Next.

THE WITNESS: It's a report of the Housing and Redevelopment Board called Neighborhood Conservation in New York City, which was published in 1966.

THE COURT: All right. What else?

THE WITNESS: I have two things which I could not find in my library but I remembered having read. I tracked them down. One is from the AIP Journal of

August, 1963, called The Tipping-Point In Racially Changing Neighborhoods.

THE COURT: What is AIP Journal?

THE WITNESS: Association of Planners.

THE COURT: You handed that to Mr. Land?

THE WITNESS: Yes.

THE COURT: What else?

THE WITNESS: Between my first and second appearance, there appeared an article in the Stanford Law Review of January, 1974, called Integration For Subsidized Housing, and the question of racial occupancy controls.

THE COURT: Of course you read that after --

THE WITNESS: Inbetween the two testimonies. It is an ongoing thing.

THE COURT: What else?

THE WITNESS: I have a book here called Neighborhood Groups and Urban Renewal which was written by Clarence Davies, III, published in 1966, which describes some of the activity in the West Side Urban Renewal area.

THE COURT: What is the name of the book?

THE WITNESS: Neighborhood Groups and Urban Renewal.

THE COURT: Is that it, Mr. Fried?

THE WITNESS: Yes.

THE COURT: Mr. Land, any other questions?

MR. LAND: Just very few.

THE COURT: Sure.

BY MR. LAND:

Q Is there anything in any of these books or articles which you specifically want to bring to our attention on which you would state "This is really the test of racial tipping upon which I rely"?

THE COURT: Yes. We turn all the material over to you and be specific in your answer. Give us the name of the book and the page.

THE WITNESS: Reading from Ends and Means of Urban Renewal, which consists of papers from the Philadelphia Housing Associations' 50th Anniversary Forum, on page 21, which is a report on economically balanced neighborhoods and was submitted by ~~Louise~~ Lowis Winnick, presently a vice-chairman of the Ford Foundation, and I read the following which was very influential, in my opinion.

"To be sure, in virtually all new private houses there is likely to be a deficit of very low-income families. Such a deficit could be corrected by inclusion

of public housing in a redevelopment plan. But, here, two caveats must be offered.

"First, there will be few if any renewal neighborhoods that will not continue to have a high proportion of low-income families in surviving structures in or adjacent to the redevelopment site. In such cases, the goal of economic balance would require that new housing be restricted to middle and upper-income groups.

"Second. Public housing, unless sharply limited in quantity, may lessen considerably the market for adjacent new private housing and endanger the success of the redevelopment plan. While this is not the place to review the developing faults of our public housing programs, it has become increasingly clear that, unless carefully planned with respect to scale and tenancy, public housing is unwanted in most communities. These adverse attitudes would quickly be reflected in the renting or sales experience of new private housing, particularly since many of the prospective tenants or owners have sufficient income to choosefrom among alternate housing opportunities."

THE COURT: Thank you. Would you give me that? Just put it on the side.

Mark that, by the way, Mr. Clerk, as an

exhibit for identification.

Pages 41 and 42 as read and marked by the witness, only that portion.

Mark it for identification.

What else?

THE WITNESS: In the report issued by the Center for New York City Affairs I read from page 23 in discussing the West Side Urban Renewal area:

"In the West Side Urban Renewal --

THE COURT: Page what?

THE WITNESS: Page 23.

"In the West Side Urban Renewal project, for example, there was serious question whether higher-rental fully taxpaying apartments scheduled as part of the project plan, and with sponsors designated, would even be marketable because of the great amount of public housing in the area."

THE COURT: Have you marked those lines?

THE WITNESS: Yes, sir.

THE COURT: Thank you. What else, Mr. Fried?

THE WITNESS: I think that's sufficient.

THE COURT: That is page 23, Mr. Clerk, the portion underscored there is all that is being marked for identification.

Mr. Court Reporter, while he is marking that one, the first reading has been marked 68-A and B for identification.

(Plaintiffs' Exhibits 68-A and 68-B were marked for identification)

THE WITNESS: In the book called Cities In A Race With Time, starting on page 269, there is a study of Chicago's Hyde Park-Kenwood Urban Renewal Project, and I am quoting now from page 270 and page 271.

"Originally, the conference" -- and I parentheses, the conference was made up of groups of community people --

THE COURT: Start again.

THE WITNESS: "Originally, the conference pressed for 600 units of public housing, some to be small, scattered projects and other rehabilitated. (An 84-units project for the elderly was already scheduled by the Housing Authority.) But as the City's mortgage market began warning that the private millions necessary to construct 2,000 units of new housing called for in the plan (and to rehabilitate many deteriorated buildings) would not be forthcoming with so much public housing nearby, even the Conference watered down its demands for 120 units. (After the clearance called for

in the plan, one-quarter of the families in the community were still below income.) The final plan submitted to the City by the area's Mayor-appointed Community Conservation Council -- which included representatives of business, residents, institutions in the area, and white and Negro members -- proposed only 60 low-rent units.

"No protest came from the comparatively well-off Negro residents of Hyde Park-Kenwood. (The lower-income residents, white and non-white, rarely attended neighborhood meetings or participated in planning.) As one Negro civic leader declared, 'I think we should take the same position as the white people. It's a class position, really ... you can't complete a homogenous community out of heterogenous elements.'

"Some non-white homeowners felt that they had the most to lose if Hyde Park-Kenwood followed the course of racial turnover of other Chicago neighborhoods. As one expressed it to a white neighbor in Kenwood (which by 1960 was so successfully integrated that residents held a formal ball for 100 couples of both races), you have someplace to go. We haven't. If you leave, City services and police protection will go down. Will the schools stay as good?

"The uncomfortable conclusion was that to maintain stable racial integration, the number of low-income Negro families in public housing would have to be very limited. Former Hyde Parkers Elaine May and Mike Nichols, appearing at a conference benefit quipped 'Here's to Hyde Park-Kenwood, where Negro and white stand shoulder to shoulder against the board'"

MR. DOUW: Your Honor, perhaps the date should be read into the record as to the conference he was reading about.

THE COURT: Do you happen to know the date of that conference?

THE WITNESS: The conference?

THE COURT: Did you not read about a conference?

THE COURT: Sometime back?

THE COURT: Did I not ask you about a place of the conference or am I wrong?

THE WITNESS: This conference refers to a group of paper. It was called a conference.

THE COURT: That is what he meant. He wants to know when they met?

THE WITNESS: I don't know, your Honor.

THE COURT: He has a right to ask it. It is not disclosed. Let's have that last volume unless there

is something else.

THE WITNESS: There is something else.

THE COURT: What page ?

THE WITNESS: Starting at page 271 is a paragraph relating to the New York City West Side Renewal project.

I am reading from page 272.

"A Catholic priest who became a self-appointed spokesman for the displaced opposed demolition of Old Law tenements, as called for in the plan in order to upgrande the area were well-planned modern apartments. I suggested that the whole renewal area should be turned into public housing for displacees. The City-appointed committee proposed raising the amount of low rent unit to 160.

"The housing committee of the local reform Democratic Club proposed the principal of 'maximum dispersion' of both economic and ethnic groups in order to make a renewal area a model integrated community.' Under this, 2,650 public-housing units were to be scheduled, some in projects, some in rehabilitated brownstones and other 'skewed in the middle income housing projects (on a basis similar to the federal rent supplement plan). Such disperson would, said their

proposer, 'breakdown barriers between various socio-economic groups and increase upward mobility among the lower socio-economic groups as well as increase their leadership potential.

"The unexpected, constructive, and perhaps tragic split at the public hearings on the final plan in 1962 was between the representatives of the Negro and the Puerto Rican constituents. A spokesman for the Puerto Ricans denounced the balanced community concept 'as a way to get rid of Negroes, Puerto Ricans, and other low income families in the area.' The Housing Section of the NAACP, however, said that to relocate every low income family within the West Side Renewal area would 'give municipal sanction to containment and encourage the development of a community characterized by racial and economic imbalance.' He expressed satisfaction with the proposal by the official citizens renewal committee to prove 160 units. The politicians won. Mayor Wagner announced that the amended final plan would include 500 units of public housing."

THE COURT: Let's have that, please.

What pages did you read from this this last volume again?

THE WITNESS: I read from pages 272 and 273.

THE COURT: Mr. Clerk, would you be good enough to mark these for identification.

In the meantime, the second reading has been marked 68-C for identification.

That is the reading from Urban Renewal Influx.

(Plaintiffs' Exhibit 68-C was marked for identification)

xxxx

MR. GOLD: Cities In a Race With Time that was just read from may we have the author?

THE COURT: Mr. Clerk, who is the author of that book, the last one I gave you?

THE CLERK: Jeanne R. Lowe.

THE WITNESS: I might add it's autographed to me.

I am now reading from Neighborhood Groups and Urban Renewal written by J. Clarence Davies, III, whose father was an original member of the Housing and Re-development Board. He was chairman of it.

I am reading from page 142.

THE COURT: There are so many grounds possible, and I say this facetiously to disqualify myself, on comes a witness born in England, I was born in England, here he is with his J. Clarence Davies, who was a client of the firm I first worked at for $5 a week.

THE WITNESS: Is that the father?

THE COURT: The father.

THE WITNESS: This is the III.

THE COURT: Yes, indeed. I got $5 a week. Go on.

THE WITNESS: Discussing the West Side Urban Renewal project. "On June 26 the Board of Estimate voted unanimously to approve the final plan. The plan had undergone many changes since its details were first laid out by the Urban Renewal Board. Having started out to contain 400 low income housing units, 2400 middle income units, and 5000 high income units, the project in the final plan was to contain 2500 low,4900 middle and 2000 high income units. Relocation was to be done by the sponsors, not by the City. After seven years of delay and controversy, however, the project was now on its way to being translated from planning to reality."

THE COURT: That will be marked, Mr. Clerk, that one page, for identification. It is page 142.

In the meantime, Mr. Court Reporter, the reading from Cities In A Race With Time has been marked 68-D for identification and 68-E for identification.

(Plaintiffs' Exhibit 68-D and 68-E were marked for identification)

xxx

THE COURT: How much more have you got to read?

THE WITNESS: I just have this law review article.

THE COURT: All I want to know is how many articles are you going to read from?

THE WITNESS: I will submit two without reading because they are general discussions of the tipping point.

THE COURT: Those you already turned over to Mr. Land?

THE WITNESS: Yes.

THE COURT: What other reading do you wish to call our attention to, if anything?

THE WITNESS: I would like to read from the Standard Law Review article dated January 1974.

THE COURT: How much of a reading is that?

THE WITNESS: Very short.

THE COURT: What page?

THE WITNESS: Page 251.

THE COURT: Please read.

end t4

THE WITNESS: The heading is called The Tipping Phenomenon.

"To determine whether the integrated status of these projects is attributable to the use of racial occupancy controls, one must first examine the process of racial turnover known as the tipping phenomenon. The tipping principle states that white families will abandon and avoid a given housing development or neighborhood after the black percentage of the population exceeds a certain point, usually assumed to be somewhere between 30 and 50 percent black."

I now would like to read from page 255:

"Recognizing the existence of a tipping phenomenon Grodzins, (who is the author of a book) pointed out that the 'tip point varies from city to city and from neighborhood to neighborhood' and his recognition of the existence of racial tipping, while still emphasizing the potential for variability in its occurrence, is still quite consistent with Schelling's explanation of the process. The differing individual white tolerance toward black neighbors and jittery white speculations are tipping's primary causes, and tipping points will vary according to the attitudal composition of a given white population and the different arrangements

of environmental factors which could trigger uncontrolled white fears that an irrevocable chain of turnover has done."

THE COURT: That completes it sir?

THE WITNESS: Yes, sir.

THE COURT: What pages again?

THE WITNESS: 251 and 255.

THE COURT: That's to be marked for identification.

Mr. Court Reporter, the reading from Neighborhood Groups, et cetera has been marked 68-F for identification, and the Court directs that all of these be made available to the court reporters who undoubtedly would like to compare their notes with the portions that were read. You will then return these volumes to Mr. Morris who in turn will get them back to the witness.

THE WITNESS: One more from the report on Neighborhood Conservation in New York City --

THE COURT: You brought it on, Mr. Land. You stand there as though blaming me for it. Once you open the door and he wants to answer, he has to be allowed to go all the way down the line. But I want to be through. I have a right to ask you what else you have.

THE WITNESS: I told the reporter, report on Neighborhood Conservation in New York City.

THE COURT: How much do you have to read?

THE WITNESS: Ten lines.

THE COURT: Go ahead.

THE WITNESS: The paragraph is called Improving Inter-Group Relations.

"Subconciously or not, 'grey' areas was more than a shorthand description of physical deline to many long time Conservation District residents. It was almost equally an indivious appellation for the population changes that had occurred in five of the neighborhoods. They had been 'white,' they might become 'black,' they were in any event 'grey,' that is racially mixed. To some, perhaps even a majority of white residents, the change was not welcomed, should not be countenanced and ought in any event to be reversed. Failing this, the suburbs and other boroughs offered a convenient and economically and psychologically expensive escape."

I might mention that two of these conservation areas are immediately adjacent to the West Side Urban Renewal area.

THE COURT: Sit down Mr. Land because I have a couple of statements to make.

Gentlemen, this is a perfect example of what I was trying to emphasize before, and I suggest to you that this could have been condenced by extracts taken from the different books and pamphlets, sho to counsel giving them an opportunity to cross-examine if they saw fit, so at least we coula have saved a half hour by having offered into evidence these extracts that he read into the record. It could have been treated as exhibits and so forth.

Without embellishing it, a word to the wise is sufficient. Let's not repeat the experience because it is time consuming.

Mr. Court Reporter, the extracts from Racial Controls in Housing, those two excerpts, have been marked 68-G and 68-H and the excerpt from Neighborhood Conservation, the last one, 68-I for identification.

Gentlemen, we have come to the end of the trial day in this case. Mr. Fried, I'm sorry. I have lawyers up in chambers on another matter, but I told counsel that we would sit until about this hour. That's all we can do.

We will resume tomorrow morning promptly at 10:00.

I would like very much to fit in Mr. Fried at

such time as you wish. What is best for you?

THE WITNESS: We have a weekly board meeting at 9:00 o'clock. I should be through at 11:00.

THE COURT: Come when you are through and we will put you on the stand and fit you in.

MR. LAND: If I could have the material to read, perhaps sometime next week, Mr. Fried could come back and then after I am familiar with the books.

THE COURT: What can a Judge do when he sees an open challenge to wisdom and to learning, and a desire to grasp the details of an offer? I applaud it. You name it, you have got it.

I'll let you know when to come back.

THE WITNESS: Thank you.

MR. LAND: Thank you.

(Plaintiffs' Exhibits 68-F, G, H and I were marked for identification)

(Trial adjourned to 10:00 o'clock, Wednesday, May 8, 1974)

xxx

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Austin K. Haldenstein (Resumed)	2160	2179		
Abe Roth	2242	2251		
Rafael Sifonte	2253	2283		
Dinah Sours	2303			
Walter S. Fried (Resumed)		2336		

EXHIBIT INDEX

Plaintiffs	Identification	In Evidence
60 through 64		2158
65		2177
66, 67		2178
68-A, 68-B	2343	
68-C	2348	
68-D, 68-E	2349	
Defendants		
V	2206	
W	2206	
X	2240	